

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA,                     )  
  )  
                          Plaintiff,             )  
  )  
                  vs.                             ) Case No.  
  ) 16-04068-01-CR-C-RK  
BRUCE WAYNE STEPHENS,                     )  
  )  
  )  
                          Defendant.           )

TRANSCRIPT OF PROCEEDINGS - VOLUME II  
BEFORE THE HONORABLE ROSEANN KETCHMARK  
UNITED STATES DISTRICT JUDGE  
DECEMBER 6, 2016  
JEFFERSON CITY, MISSOURI

FOR THE PLAINTIFF:  
MR. PHILLIP EUGENE PORTER  
MS. EMILY A. ORSINGER  
Assistant United States Attorneys  
Charles Evans Whittaker Courthouse  
400 East Ninth Street, Floor 5  
Kansas City, Missouri 64106

FOR THE DEFENDANT:  
MR. JAMES EDWARD BROWN  
1609 West 92nd Street  
Kansas City, Missouri 64114

Proceedings recorded by mechanical stenography, transcript  
produced by computer

KATHERINE A. CALVERT, RMR, CRR  
FEDERAL OFFICIAL COURT REPORTER  
CHARLES EVANS WHITTAKER COURTHOUSE  
400 EAST NINTH STREET  
KANSAS CITY, MISSOURI 64106

I N D E X

Page

DECEMBER 5, 2016

VOLUME I

Pretrial conference. . . . .	6
Government's opening statement . . . . .	30
Defendant's opening statement. . . . .	39
GOVERNMENT'S EVIDENCE	
BRIAN DAVID RISLEY	
Direct examination by Mr. Porter. . . . .	45
Cross-examination by Mr. Brown. . . . .	89

I N D E X  
(continued)

Page

DECEMBER 6, 2016

VOLUME II

BRIAN DAVID RISLEY (resumed)	
Cross-examination by Mr. Brown (continued) . . . . .	120
Redirect examination by Mr. Porter . . . . .	141
Questions from the jury by Mr. Porter . . . . .	148
Recross-examination by Mr. Brown . . . . .	149
Further redirect examination by Mr. Porter . . . . .	150
G. PAUL TYREE	
Direct examination by Ms. Orsinger . . . . .	151
Cross-examination by Mr. Brown . . . . .	169
Redirect examination by Ms. Orsinger . . . . .	179
Recross-examination by Mr. Brown . . . . .	185
Questions from the jury by Ms. Orsinger . . . . .	202
Further recross-examination by Mr. Brown . . . . .	202
RANDALL SINELE	
Direct examination by Mr. Porter . . . . .	204
Cross-examination by Mr. Brown . . . . .	206
Redirect examination by Mr. Porter . . . . .	207
Recross-examination by Mr. Brown . . . . .	207
Questions from the jury by Mr. Porter . . . . .	209
Further redirect examination by Mr. Porter . . . . .	210
JAMES BLACK	
Direct examination by Ms. Orsinger . . . . .	211
Cross-examination by Mr. Brown . . . . .	218
Redirect examination by Ms. Orsinger . . . . .	221
Questions from the jury by Ms. Orsinger . . . . .	222
WENDY HOUSTON	
Direct examination by Mr. Porter . . . . .	224
Cross-examination by Mr. Brown . . . . .	242
Questions from the jury by Mr. Porter . . . . .	276
Recross-examination by Mr. Brown . . . . .	282
Redirect examination by Mr. Porter . . . . .	283
CODY ABRAM	
Direct examination by Mr. Porter . . . . .	285

I N D E X  
(continued)

Page

DECEMBER 7, 2016

VOLUME III

CODY ABRAM (resumed)	
Direct examination (continued) by Mr. Porter. . . . .	317
Cross-examination by Mr. Brown. . . . .	335
Redirect examination by Mr. Porter. . . . .	347
Questions from the jury by Mr. Porter . . . . .	359
Redirect examination by Mr. Porter. . . . .	362
Recross-examination by Mr. Brown. . . . .	364
Instructions conference. . . . .	374
DEFENDANT'S EVIDENCE	
BRUCE WAYNE STEPHENS	
Direct examination by Mr. Brown . . . . .	396
Cross-examination by Mr. Porter . . . . .	416
Redirect examination by Mr. Brown . . . . .	421
Questions from the jury by Mr. Brown . . . . .	429
Government's closing argument. . . . .	435
Defendant's closing argument . . . . .	445
Government's rebuttal closing argument . . . . .	453
Verdict. . . . .	464

# INDEX OF EXHIBITS

EXHIBIT NO.	DESCRIPTION	OFFERED	RECEIVED
FOR THE GOVERNMENT:			
1	Miranda rights waiver	287	287
2	Videotaped interview	288	288
2 (a)	Video clip	292	292
2 (b)	Video clip	295	295
2 (c)	Video clip	297	297
2 (d)	Video clip	323	323
2 (f)	Video clip	328	328
2 (g)	Video clip	329	330
2 (h)	Video clip	330	330
4	9/29/16 voicemail	81	81
5	Voicemail transcript	83	83
6	Receipt	86	86
7	9/29/16 email	88	88
15	Aerial photograph	75	75
17	Minute entry	66	66
19	Minute entry	348	349
34	Stipulation	367	367

1 DECEMBER, 6, 2016

2 MORNING SESSION

3 (The following proceedings were had in the courtroom  
4 out of the presence of the jury:)

5 THE COURT: Please be seated.

6 Mr. Porter, do you have an issue?

7 MR. PORTER: Your Honor, I apologize. These two  
8 issues came up after we finished our chambers conference this  
9 morning.

10 In anticipation of defense witness Linnel Beckner  
11 testifying, we subpoenaed from the Burrell Treatment Center the  
12 treatment records of Mr. Beckner. We used a standard trial  
13 subpoena, not a Rule 17 subpoena to require the protection of  
14 those in advance. The witness who has those records is here in  
15 the courtroom, Mr. Houston, in the back, and he is  
16 uncomfortable releasing those records to us without you  
17 directly ordering him to do so. So if you would entertain  
18 ordering him to produce those records so we could start looking  
19 at them, that would be useful.

20 THE COURT: Can you come on up, please. I'll have  
21 you take the witness stand, please, and my clerk will swear you  
22 in.

23 HUNTER HOUSTON, being sworn by the courtroom deputy, testified:

24 THE COURT: Go ahead and be seated. Do you want to  
25 question him or do you want me to question him?

1 MR. PORTER: Your preference, Judge.

2 THE COURT: I can just ask him a couple questions.

3 EXAMINATION BY THE COURT:

4 Q Please state your name for the record.

5 A My name is Hunter Houston.

6 Q Would you spell your last name?

7 A H-o-u-s-t-o-n.

8 Q Where do you work?

9 A I work for Burrell Behavioral Health in Columbia,  
10 Missouri.

11 Q What is your position there?

12 A I am the lead health information management clerk.

13 Q Are you considered records custodian?

14 A Yes, I am.

15 Q As part of your duties as records custodian, did you  
16 receive a subpoena requesting records of a patient?

17 A Yes, I did.

18 Q And do you have that subpoena in front of you?

19 A I do.

20 Q Could I see that subpoena?

21 A Yes.

22 Q The subpoena was issued in the case of United States  
23 vs. Bruce Stephens directing you to bring all records and  
24 reports in the care, custody, and control of Burrell Behavioral  
25 Health Crisis Service relating to Linnel Beckner, date of birth

1 and Social Security number listed; is that accurate?

2 A That is.

3 Q Pursuant to this subpoena, did you retrieve your  
4 records?

5 A Yes, I did.

6 Q Do you have them in court today?

7 A I do.

8 Q Are they accurate copies of the records that you were  
9 directed to bring?

10 A Yes, they are.

11 Q And I'm assuming it's pursuant to HIPAA that you're  
12 reluctant to turn the records over?

13 A That's correct. Due to confidentiality, I can't  
14 release the records without a court order.

15 Q And I am directing you to release those records to the  
16 Assistant United States Attorney at this time to be utilized in  
17 this court proceedings but for no other purposes.

18 A Okay. Great.

19 MR. PORTER: Thank you, Your Honor.

20 THE COURT: Do you have any questions?

21 MR. PORTER: No.

22 THE WITNESS: Thank you very much.

23 MR. PORTER: What we'll do at this point, Your  
24 Honor, is review them, make some copies for defense counsel for  
25 their use at the time of Mr. Beckner's examination.



1 THE COURT: Okay. And do you want us to go ahead --  
2 when you're ready for us to make copies, if you could let my  
3 staff know, they could make copies.

4 MR. PORTER: Then we'd also ask the witness to stay  
5 so if we need to lay foundation for their admission in front of  
6 the jury, we could do that, unless there's going to be a  
7 stipulation to that effect.

8 THE COURT: Do you have any --

9 MR. BROWN: I have no knowledge. I don't have any  
10 idea what they say. I'm not prepared to do that.

11 THE COURT: Okay. Without an agreement as to the  
12 foundation, I'll need you to stay.

13 THE WITNESS: Okay.

14 THE COURT: Is there any problem with that?

15 THE WITNESS: There shouldn't be.

16 THE COURT: And I would -- no one has invoked the  
17 rule. Is there any problem with him staying in the courtroom  
18 or do you want him to stay outside?

19 MR. BROWN: I don't have a problem. No one has  
20 invoked the rule. I've asked my witnesses not to come in.

21 MR. PORTER: Even though no one's invoked, we've  
22 observed it anyway, Your Honor. It doesn't matter to us either  
23 way.

24 MR. BROWN: It doesn't matter to me.

25 THE COURT: If there's no objection to you being in

1 the courtroom as records custodian, you are free to be in the  
2 courtroom or outside, but you need to stay close by for the  
3 government to be able to call you as a witness.

4 Thank you.

5 MR. PORTER: I said there were two. I've been  
6 informed by the marshals that Mr. Redmon, who is here today  
7 pursuant to the ASR, has stated that he will not testify unless  
8 counsel is provided for him; and with that request in place, we  
9 don't intend to call him. So at this point, unless the defense  
10 has an objection, it will be our intent to release Mr. Redmon  
11 and let him be on his way and back in the care and custody of  
12 the marshals and no further obligation to this court for this  
13 proceeding.

14 THE COURT: Mr. Brown, anything you want to say for  
15 the record?

16 MR. BROWN: I did not subpoena Mr. Redmon or writ  
17 him here. He is here under a writ. I anticipated that the  
18 government would call him because he was on the government's  
19 witness list. Just because they put him on the list, doesn't  
20 create an obligation. But I also included their parties on my  
21 witness list, and I'd like to talk with him before -- A, if he  
22 wants a lawyer, I think he certainly needs one. I certainly  
23 want to talk to him before I tell the Court that I'll be  
24 calling him as a witness in my case.

25 THE COURT: Let me ask you a couple of things. Who

1 was his counsel?

2 MR. BROWN: David Kelly.

3 THE COURT: David Kelly. Is he here in the area?

4 MR. PORTER: He lives in Lee's Summit, Your Honor.

5 THE COURT: And, Mr. Brown, I'll give you an  
6 opportunity to visit with the public defender's office or I  
7 could -- Ms. Russell, I may ask you to visit with Judge  
8 Whitworth if he's here. If he's not here to visit with the  
9 public defender and see if we could get stand-in counsel for  
10 Mr. Redmon, and then over a break or a lunch period we'll see  
11 if we can accommodate him having counsel and you having an  
12 opportunity to call him as a witness. Of course, if you call  
13 him as a witness, the AUSA can cross-examine. So we'll try to  
14 accommodate if that's what you end up wanting to do. And we  
15 may not be able to resolve this over our lunch hour. If we  
16 need to take an extra long lunch hour, we'll do that as well.

17 Any issues, Mr. Brown, before we call the jury in?

18 MR. BROWN: Not that I'm aware of, no.

19 THE COURT: And I thought I saw Mr. Risley come in.

20 MS. ORSINGER: I had him wait in the vestibule since  
21 you were talking.

22 THE COURT: Then we'll need the defendant.

23 Good morning, Mr. Stephens. I'll let you have a  
24 seat before we call the jury back.

25 Mr. Risley, you can be seated. We're going to have

1 the jurors submit questions if they have questions of  
2 witnesses. So after the attorneys have finished their  
3 questioning, we're going to take a minute to collect note cards  
4 from the jury. So it might be something that you're not used  
5 to but you'll just stay seated.

6 THE WITNESS: Very good. Thank you.

7 THE COURT: Are we ready to call the jury back?

8 MR. BROWN: No, Your Honor. I may have left my  
9 expando file in the chambers conference room.

10 THE COURT: Ms. Russell. We'll take just a second.

11 MR. PORTER: Sorry for those two matters, Judge. I  
12 didn't see those coming.

13 THE COURT: That's all right.

14 Mr. Brown, are you ready for the jury to come in?

15 MR. BROWN: Yes, Your Honor.

16 (The following proceedings were had in the presence  
17 of the jury:)

18 BRIAN DAVID RISLEY resumed the stand and testified:

19 THE COURT: Please be seated.

20 Good morning, ladies and gentlemen. I hope you had  
21 a good evening and I'm glad you all made it safely back.

22 I had a chance to visit with the attorneys in our  
23 conference this morning, and they are still hopeful that they  
24 may be submitting the case to you for deliberations today.

25 I do have a question. Since I warned you that we

1 would normally run from nine to five, is there anyone who would  
2 need to leave at five? Does anyone have an obligation? Child  
3 obligations?

4 (No response.)

5 THE COURT: I'm saying that because if we turn the  
6 case over to you, it's then out of our court and in yours and  
7 you can deliberate as long as you want, go into the evening; or  
8 if we don't get far enough today, we'll recess at five and  
9 begin at nine. So if you could just update Ms. Wheeler as to  
10 your schedules. I didn't warn you about that possibility last  
11 night. So it's fine if we need to leave at five today.

12 Second issue is, as I mentioned in one of the  
13 earlier instructions, that you have note cards where you can  
14 ask questions of the witnesses, and this is our first witness.  
15 I'm just reminding you of that once the attorneys have finished  
16 questioning the witness, then I'll have the intern collect 14  
17 cards and place them up here. So just to give you a heads up.

18 At this point, Mr. Risley, I need to inform you you  
19 are still under oath.

20 And, Mr. Brown, are you ready to resume your  
21 cross-examination?

22 MR. BROWN: Yes, Your Honor.

23 THE COURT: You may proceed.

24 CROSS-EXAMINATION (continued) BY MR. BROWN:

25 Q Mr. Risley, when we left yesterday, we had been talking

1 about your email and voicemail that you sent to Mike Oliver.

2 A Yes, sir.

3 Q The email doesn't accurately describe what happened; is  
4 that correct?

5 A I guess I don't know what you mean about how --

6 Q The email says something to the effect --

7 MR. BROWN: Did we introduce that, Gene?

8 MR. PORTER: Yes. It is Government's Exhibit 7. We  
9 can put it on the screen if you like.

10 MR. BROWN: Sure. That would save me a lot of time.

11 Q (By Mr. Brown) Is that on your screen? Your email  
12 says, "He followed me outside and threatened me," is that  
13 correct?

14 A It does say that, yes.

15 Q That is not what happened?

16 A That would be correct.

17 Q So that at least the events described in this email are  
18 not correct?

19 A The first part is not.

20 Q Well, it makes a lot of difference between "he followed  
21 me outside and threatened me" and "I had a chance encounter on  
22 the street and he threatened me," doesn't it?

23 A They're not the same thing. I would agree with you.

24 Q And so if this email was published to the court or law  
25 enforcement or whatever in the sentencing hearing of Malcolm

1 Redmon, people would have a -- they wouldn't have an accurate  
2 reflection of what occurred?

3 A That would probably be fair, but I wasn't thinking of  
4 that at the time I sent it.

5 Q I understand.

6 MR. BROWN: Could we turn off the screens to  
7 everybody but --

8 Q (By Mr. Brown) What's been admitted as Government's  
9 Exhibit 17 I'm going to put that on the Elmo.

10 MR. PORTER: We can pull that one up for you also.

11 MR. BROWN: Thank you.

12 Q (By Mr. Brown) There's a caption on that Plaintiff's  
13 Exhibit 17; is that correct?

14 A Yes.

15 Q And it's United States of America v. Vershawn Edwards,  
16 Case No. 14-04065-23-CR-C-SRB, correct?

17 A Vershawn Dejuan Edwards, yes.

18 Q The parties to that are United States of America and  
19 Vershawn Edwards?

20 A Yes.

21 Q You're not a party. Your name's on that but you're not  
22 a party, correct?

23 A I'm Mr. Edwards' counsel but I'm not a party.

24 Q And since I don't intend to introduce these, just these  
25 screens --

1 MR. BROWN: And can we go to the Elmo?

2 Q (By Mr. Brown) Can you see that, Mr. Risley?

3 A Yes, I can.

4 Q And that's a pleading that was filed in this case?

5 A It certainly appears so. I don't recall seeing it.

6 Q There's a caption on it.

7 MR. PORTER: Your Honor, could I interrupt? Who's  
8 all viewing what the witness is seeing right now?

9 MR. BROWN: Mr. Risley and I.

10 Q (By Mr. Brown) And that caption reads United States of  
11 America vs. Scott, et al. defendants, Criminal No. 14-4065-01?

12 MR. PORTER: Judge, objection. May we approach?

13 (Counsel approached the bench and the following  
14 proceedings were had:)

15 MR. PORTER: He can lay a foundation but he can't  
16 read the exhibit. So I object.

17 MR. BROWN: I'll have him read the caption.

18 THE COURT: If you want that as an exhibit.

19 MR. BROWN: I can't. I just want the caption. I  
20 don't want the pleading.

21 THE COURT: I don't know if it's admissible or not  
22 at this point. I don't know the relevancy.

23 MR. BROWN: I don't intend to -- I don't intend to  
24 admit it.

25 THE COURT: I don't understand what you're trying to



1 do at this point.

2 MR. BROWN: Well, it's my position that the  
3 government has to prove the retaliation against a party in a  
4 specific proceeding. I want to show the jury that he's not a  
5 party to the specific proceeding; and although his client, Mr.  
6 Edwards, may be a party in Scott, et al. and Edwards, U.S. v.  
7 Edwards, he's not a party in U.S. v. Redmon.

8 MR. PORTER: Can you keep your voice down so the  
9 jury can't hear you.

10 THE COURT: I haven't seen this document. At this  
11 point you're testifying through your questions, and I would ask  
12 that you use the proper rules of evidence to ask your questions  
13 and generate your responses from this witness rather than just  
14 reading a document. And I guess you're asking him is that what  
15 this document says?

16 MR. BROWN: Okay. I'm prepared to ask him to --

17 THE COURT: You can utilize any document you want to  
18 refresh his memory. If this is the case he represented the  
19 defendant -- I mean Edwards. There's a lot of ways to skin a  
20 cat, but I just don't want you to testify. So your objection  
21 is sustained, and I'll let you get into this area if it's  
22 relevant. Just utilize the rules of evidence.

23 (The proceedings returned to open court.)

24 Q (By Mr. Brown) Looking at the document that's on your  
25 screen, what's the caption?

1 MR. PORTER: Objection, Your Honor.

2 Q (By Mr. Brown) Do you recognize that document?

3 A I don't specifically recall seeing it, but I know what  
4 it is.

5 Q If you look at the bottom, it was filed in that case?

6 A I would agree with that, yes.

7 Q And the caption refers to what?

8 MR. PORTER: Objection, Your Honor.

9 THE COURT: Can you approach?

10 (Counsel approached the bench and the following  
11 proceedings were had:)

12 THE COURT: Go ahead.

13 MR. PORTER: In addition, for the purposes of the  
14 record, it's not marked for identification. We have no way of  
15 knowing for later proceedings what this is and how it was used.  
16 It needs to be marked for identification if it's going to be  
17 shown. It needs to be -- the foundation needs to be laid.

18 MR. BROWN: I intend to show -- and I can ask the  
19 Court to take judicial notice of the filings and documents in  
20 this case.

21 THE COURT: What is your point of this?

22 MR. BROWN: The point is the government has pled --

23 THE COURT: I mean of this document. Why are you --

24 MR. BROWN: To show that Scott, et al. includes all  
25 of the defendants and U.S. v. Redmon applies to a particular

1 defendant and U.S. v. Edwards with a specific case number  
2 applies to a specific defendant.

3 THE COURT: Can't you just ask him that? Isn't that  
4 the case he represented the case under?

5 MR. BROWN: Yes.

6 MR. PORTER: You can ask the question, but the  
7 document and the way he's using it is totally improper.

8 THE COURT: So your objection is sustained.

9 (The proceedings returned to open court.)

10 Q (By Mr. Brown) You represented Mr. Edwards in this  
11 proceeding; is that correct?

12 A Well, in the criminal case.

13 Q Right.

14 A Yes.

15 Q And that's U.S. v. Scott, et al.?

16 A That is correct.

17 Q The case number to that is 14-04065-01/27-CR-C-SRB?

18 A Yes, I believe so.

19 Q And that refers to all of the 27 defendants when you  
20 call that case, Scott, et al.?

21 A That's how I take it, yes.

22 Q And when you filed pleadings and paperwork in U.S. v.  
23 Edwards, your client, who is part of the Scott, et al., you  
24 would file under 14-04065-2-CR; is that correct?

25 A Actually, no, he was No. 23.

1 Q 23. I'm sorry. And that refers to your specific  
2 client, Mr. Edwards, who is part of Scott, et al.?  
3 A Yes. My pleading would only say Vershawn Edwards but  
4 drawing the case number to it would --  
5 Q And it only dealt with your client if you filed it  
6 under that case number; is that right?  
7 A That's correct. I didn't file any pleadings for any  
8 other codefendants.  
9 Q And you had no participation in, you never filed  
10 anything, you never represented anybody in U.S. v. Redmon?  
11 A I'll agree. Yes, I did not.  
12 Q And that designation for that case is 14-065-02?  
13 A I'm thinking it's 04065, but yes. It's 2 instead of  
14 23.  
15 Q And you had absolutely no participation in that case?  
16 A Agree.  
17 Q You didn't represent any party in that case?  
18 A I would agree.  
19 Q And the parties in 04065-2 are the United States of  
20 America?  
21 A Yes.  
22 Q And Malcolm Desean Redmon?  
23 A I'm pretty sure that's his name, yes.  
24 THE COURT: Can counsel approach, please?  
25 (Counsel approached the bench and the following

1 proceedings were had:)

2 THE COURT: I'm sua sponte going to interject in  
3 what could be misleading nature of the questions. The Court's  
4 view is that the Scott case is the case and the designations of  
5 the defendants in that case are set forth by the numerical  
6 listing. Your questions are posed as if there are multiple  
7 cases.

8 MR. BROWN: There are. They're joined as Scott, et  
9 al. but each case is an individual case.

10 MR. PORTER: Judge, I agree with you.

11 THE COURT: And I don't know if we need to let you  
12 do a little research, Mr. Brown, to see if -- I think this  
13 point -- I think what your defense possibly may be is that it's  
14 a different case. And if that's not accurate, then I want to  
15 clear it up now.

16 MR. BROWN: Well, Your Honor, the government  
17 specifically pled in the indictment the official proceeding and  
18 set it by number.

19 THE COURT: Yes, which is the Scott case and they  
20 designated --

21 MR. BROWN: He just indicated he had no  
22 participation in that case with that number.

23 THE COURT: I think we're all on the same page and  
24 you have different arguments. I just don't want to mislead the  
25 jury with a defense theory that might not be a legal theory in

1 splitting hairs for different defendants versus a case --  
2 multiple cases. So I think we might be good to clear this  
3 issue up now so that we can proceed all on the same page,  
4 multiple cases or one case with multiple defendants.

5 MR. PORTER: I would absolutely agree with that  
6 exactly the way you described.

7 THE COURT: Do you think at this point we could just  
8 take a morning break and let us all have a chance to review  
9 this issue, do some legal research, and just make sure we agree  
10 coming forward, Mr. Brown? If I'm off base, I'm open-minded.  
11 I just want to make sure we are accurate for the jury in our  
12 questioning.

13 MR. PORTER: I'm happy to let counsel and the Court  
14 have whatever time they want, but from our perspective if you  
15 just have Ms. Calvert go back and find that portion of this  
16 bench conference where you set out your concern at the very  
17 beginning, I'm entirely comfortable that being the statement  
18 you make to the jury.

19 THE COURT: And I want to take a break and I want to  
20 actually do my own research and visit with the clerk's office  
21 and get a sound understanding on how we move forward in the  
22 most exact way. If you have -- if that is a valid defense, I  
23 want you to have that, Jim, but I want to go in the right  
24 direction because I think this small point might make a  
25 difference in closing arguments.

1 MR. BROWN: Well, here's my position. The  
2 government could have pled this as Scott, et al. It chose not  
3 to. It pled it as U.S. v. Redmon with the specific case  
4 number.

5 THE COURT: See, I don't really see that as  
6 critical. He has the critical case number. It does list one  
7 of the defendants, which is relevant. However, you can conform  
8 your verdict director to conform to the evidence. It may not  
9 be exactly the indictment. It's not one of the critical issues  
10 in the indictment. So there is some leeway there. And if this  
11 is just a red herring and it's not going to get you anywhere,  
12 you need to know it now, because I don't want to get to a point  
13 where I'm not going to let you argue that in closing and you  
14 are counting on that.

15 MR. BROWN: Well, I'm not counting on that, quite  
16 frankly. This is for the record because, as I've indicated all  
17 along, I think they have to show the party that was retaliated  
18 against in the official proceeding, and they put the specific  
19 official proceeding -- you know, the indictment.

20 THE COURT: Do you want to make any other comments  
21 for the record?

22 MR. PORTER: No.

23 THE COURT: Let's take a morning break and let's  
24 just be careful as we move forward.

25 MR. BROWN: Okay.

1 (The proceedings returned to open court.)

2 THE COURT: Ladies and gentlemen, we are going to  
3 take an early recess this morning. Normally we take one about  
4 10 or 10:30, but I want to do a little legal research. So  
5 we're going to have a 45-minute morning recess.

6 And let me go ahead, since it's the beginning of the  
7 day, to read this instruction, the admonishment. We are about  
8 to take a recess and I'll remind you of the instruction I gave  
9 you earlier. During this recess or any other recess, you must  
10 not discuss this case with anyone. If anyone tries to talk to  
11 you about the case, please let me know about it immediately. I  
12 may not repeat this before every recess but keep this in mind  
13 throughout the trial.

14 Ms. Wheeler, will you allow them to go outside the  
15 jury room or do they --

16 THE COURTROOM DEPUTY: They can go outside, yes.

17 THE COURT: And did you allow them to bring in their  
18 phones?

19 THE COURTROOM DEPUTY: Yes.

20 THE COURT: Will you -- they can utilize their  
21 phones at break then.

22 THE COURTROOM DEPUTY: Yes, they can.

23 THE COURT: Were you all glad that you were able to  
24 turn over your phones to the Court versus putting them  
25 downstairs to use at the break? I see a lot of heads nodding.



1 This is the direction I want to go in in the future. I like  
2 all the heads nodding. So I can bring that back to my chief  
3 judge.

4 Ms. Wheeler, if you can let them have their phones  
5 and coordinate with the CSO since this is the first time this  
6 courthouse has done this procedure. Why don't we -- if they  
7 want to utilize their phones, utilize their phones only in the  
8 jury deliberation room if there's good cell coverage, and don't  
9 bring the phones back downstairs in and out through the  
10 security. Let's just keep our business up here with the cell  
11 phones.

12 They need to be back at 10:30. We'll be in recess.

13 (Recess was taken at 9:50 a.m.)

14 (The following proceedings were had in the courtroom  
15 out of the presence of the jury:)

16 THE COURT: We do have some information. The public  
17 defender's office does not want to utilize their folks, which  
18 they probably have one of the lead conflicts.

19 MR. BROWN: Right. They have Scott.

20 THE COURT: So we're going to seek CJA appointment  
21 who does not have a conflict with any of the 27 is what we're  
22 doing.

23 I think the next question my clerk has is when does  
24 that attorney need to be here to coordinate with you? And I  
25 don't know that we can make that call at this point. I guess

1 we could make it over our lunch hour, and we can take a long  
2 lunch hour if we need to.

3 MR. BROWN: Okay.

4 THE COURT: Unless you have another suggestion. I'm  
5 open.

6 MR. BROWN: No, I don't.

7 MR. PORTER: The only input I would make, Judge, is  
8 I think that's the appropriate procedure that we should be  
9 following, but I don't think Mr. Redmon's going to have a  
10 concern about Mr. Brown interviewing him without an attorney  
11 being there. I could be wrong about that.

12 MR. BROWN: Well, I don't know, and I do -- Mr.  
13 Redmon has counsel on appeal and I have permission from that  
14 counsel to talk with him and I talked with him Saturday at the  
15 Phelps County jail. I don't mind talking with him, but I don't  
16 want anybody sitting there saying that I'm giving him legal  
17 advice or representing him or anything else. I think he needs  
18 counsel of his own.

19 THE COURT: I'll leave that up to Mr. Porter and  
20 you. If he's willing to talk with you and there's no  
21 objection, I'm fine. I totally have no doubt that you'll be  
22 appropriate.

23 MR. BROWN: Okay.

24 THE COURT: We'll be in recess.

25 (A recess was taken.)

1           (The following proceedings were had in the courtroom  
2 out of the presence of the jury:)

3           THE COURT: We're back on the record. It's now  
4 10:22. The jury is out of the courtroom.

5           The Court's had a chance to have a conference call  
6 with the court clerk, Mike Zadina, and case specialist  
7 regarding case numbers and defendant designations. In a case  
8 with multiple defendants the court clerk advises that it is one  
9 case, a base case with multiple defendants and that the  
10 numerated defendants designate each defendant's docket sheet.  
11 Each defendant's docket sheet is also part of the base case.

12           There are two examples that the specialist gave. If  
13 an individual defendant were to file a pleading under the base  
14 case and designate the defendant number and that pleading was  
15 applicable to another defendant in the base case, that pleading  
16 would be listed under that individual defendant's docket sheet  
17 as well as the other codefendant's docket sheet as well as  
18 under the base case.

19           Another example was that if you had multiple  
20 defendants and, for example, two defendants were severed off  
21 and had a separate trial, the Court Clerk's Office views the  
22 severed trial as remaining in the base case even if there were  
23 multiple trials.

24           I say this because the questioning by the defense  
25 left an impression in my mind, in the Court's mind that the

1 defense was arguing each codefendant is a separate case and  
2 that the indictment in this case which set forth the base case  
3 but designated Malcolm Redmon and his individual defendant  
4 number, docket sheet number would be part of his defense of an  
5 insufficient -- or defective indictment or some defense. And  
6 my concern is if the Court were to reject a proposed  
7 instruction on his theory of defense, that it's most proper for  
8 the Court to give a warning regarding this area which is more  
9 the province of the Court regarding case number designations.

10 So that was my concern as I did not want the defense  
11 to be negatively affected by an adverse ruling on a proposed  
12 defense instruction.

13 I'll now give the defense and government a chance to  
14 weigh in on the record.

15 Mr. Brown.

16 MR. BROWN: I would just call the Court's attention  
17 to Federal Rules of Criminal Procedure 8, joinder of offenses  
18 and defendants, specifically 8(b), which deals with the  
19 indictment of different defendants and joining different  
20 defendants in a base case as indicated.

21 THE COURT: But, Mr. Brown, I guess I don't  
22 understand the relevancy of that rule to this case. When  
23 defendants are indicted jointly, they are -- joinder is  
24 presumed proper and that rule wouldn't be applicable. So what  
25 is your point as to that rule? I'm missing your point.

1 MR. BROWN: Well, that they are charged as separate  
2 defendants but their cases are joined under Rule 8(b) if it's  
3 proper.

4 THE COURT: I'll let Mr. Porter weigh in.

5 MR. PORTER: Your Honor, I don't think that reliance  
6 on Rule 8 is applicable to the issue the Court is addressing.  
7 And in addition to what you've outlined, the only thing I would  
8 add is that the issue that is trying to be developed in front  
9 of the jury is, I think, as you described it, a legal issue,  
10 not a question for the jury. So this whole issue of base case  
11 and all of that, I think the jury needs to hear that from the  
12 Court as a matter of law, because any concern about the  
13 defective indictment is preserved to whatever extent that  
14 becomes an issue in further proceedings. It's not a jury  
15 question. It's not a fact question. It's a legal question and  
16 it's not for the province of the jury.

17 THE COURT: Mr. Brown, any follow-up?

18 MR. BROWN: Well, Judge, our position as our motion  
19 to dismiss, which has been overruled, raised this as a legal  
20 issue. The Court didn't rule that for whatever reason, but  
21 it's made it an issue for the trier of fact.

22 THE COURT: Mr. Brown, I think -- Court finds that  
23 the designation of individual defendants does not designate  
24 different cases, and it would be improper for you to argue that  
25 they're not part of the same case.

1           Saying that, you do have -- you've made in your  
2 motion a separate argument that under 1513 -- 18 U.S.C. 1513  
3 that the retaliation or the threat needs to be directed at a  
4 witness or a party, and that is a separate issue when the  
5 threat was made towards the defense attorney. So that in no  
6 way affects that argument that you have.

7           MR. BROWN: Right.

8           THE COURT: Anything further, Mr. Porter?

9           MR. PORTER: No, Your Honor. I assume you're going  
10 to give that instruction or that advice to the jury at some  
11 point, and I think we'll be ready to continue on afterwards.

12          THE COURT: I don't know that it rises to the level  
13 of needing to instruct the jury as to that. You can certainly  
14 argue within the bounds of the law, both sides, and I wouldn't  
15 allow a side to argue contrary to -- mislead the jury as to the  
16 law. If you have a proposed instruction for the Court's  
17 review, I would entertain any instruction you submit.

18          MR. PORTER: If you would give us a brief period of  
19 time, not a recess, but we'll work on that and get that to the  
20 Court as soon as practical.

21          THE COURT: As long as it's before closing.

22          MR. BROWN: I have just a minute, two or three more  
23 questions of Mr. Risley and I'll be done.

24          THE COURT: Okay. Any other issues that we should  
25 take up? I do want to take up -- we do have CJA attorney

1 appointed now, Mr. Nick Brown, available to serve as counsel or  
2 standby counsel for Mr. Redmon who's now in our holding  
3 facility. I would suggest that both Nick Brown and Jim Brown  
4 visit with Mr. Redmon together and work through that and just  
5 advise the Court as glitches occur.

6 MR. BROWN: That's fine. And I've talked with Mr.  
7 Porter. I'll go down and talk with Mr. Redmon at our lunch  
8 break. If Mr. Brown is available then, I'll grab him and we'll  
9 go.

10 THE COURT: Very well. For the record, Nick Brown  
11 is in the courtroom right now, and so if you could do that at  
12 our next break.

13 Mr. Brown, I would also suggest Nick Brown going  
14 down right now and introducing himself.

15 MR. NICK BROWN: Yes, Judge. When would the Court  
16 be taking the break for the conversation with the other Mr.  
17 Brown?

18 THE COURT: I anticipate during our lunch break.

19 MR. NICK BROWN: I will speak to him then.

20 THE COURT: Mr. Nick Brown, let me ask you, do you  
21 have any commitments throughout the day that we need to work  
22 around?

23 MR. NICK BROWN: I do have an appointment around two  
24 o'clock, but I don't know how long his testimony would be or  
25 whether you want me to stay through the conclusion of his

1 testimony. I just don't know any of that.

2 MR. BROWN: Well, we aren't going to get to him  
3 until at least later today.

4 MR. NICK BROWN: I mean I could come back.

5 THE COURT: Are you far away?

6 MR. NICK BROWN: No.

7 THE COURT: You can work through that with Jim Brown  
8 over the lunch hour.

9 Are we ready to call the jury back?

10 MR. PORTER: Yes, Your Honor.

11 THE COURT: And can we have Mr. Risley on the stand  
12 again.

13 MR. PORTER: Yes, ma'am.

14 BRIAN DAVID RISLEY resumed the stand and testified:

15 (The following proceedings were had in the presence  
16 of the jury:)

17 THE COURT: Please be seated.

18 Mr. Brown, sorry for that interruption. You may  
19 continue with your cross-examination.

20 MR. BROWN: Thank you, Your Honor.

21 CROSS-EXAMINATION (continued) BY MR. BROWN:

22 Q Mr. Risley, you were the court-appointed counsel for  
23 Mr. Edwards?

24 A That is correct.

25 Q He didn't retain you. He didn't spend any of his money



1 for your representation?

2 A Correct.

3 Q And then on the 29th of September in the evening you  
4 met with agents with the FBI?

5 A No, I did not. I talked to them later.

6 Q You had provided a statement, is that right, some  
7 written statement?

8 A I prepared a statement, yes, and I did email it to, I  
9 believe only at that time, to Mr. Oliver.

10 Q And that was written about 8:30 p.m. on September 29th?

11 A Yes, it was.

12 Q And you emailed that to whom?

13 A Mike Oliver. I may have emailed it the next morning.  
14 I wrote the message out -- or I wrote the statement out for,  
15 frankly, my own benefit at the time.

16 Q And did any agent of the FBI, ATF, DEA ever interview  
17 you regarding the events that occurred here at the courthouse  
18 on the 29th?

19 A Not on the 29th, no. It was a few days later. I think  
20 it was the following Monday or Tuesday, I did a phone  
21 interview.

22 Q With?

23 A With Mr. Abram with the FBI. I did speak with the U.S.  
24 Marshal the following day and he was aware of the statement,  
25 but we didn't go -- there were other issues we were discussing.

1 Q So the only agent that you've talked with regarding the  
2 specifics of what occurred on the 29th would be Agent Abram?

3 A Yes. There was a local Springfield agent, but I didn't  
4 talk the specifics of the case with him.

5 Q And you've indicated your office is in Springfield?

6 A Yes, it is.

7 MR. BROWN: I don't have anything further, Your  
8 Honor.

9 THE COURT: Any redirect?

10 MR. PORTER: Very briefly, Your Honor.

11 REDIRECT EXAMINATION BY MR. PORTER:

12 Q Mr. Risley, the reason that you spoke with the FBI  
13 agent that Mr. Brown just asked you about, what was the reason  
14 for that?

15 A He was following up after I -- I advised Mr. Oliver  
16 what happened, spoke with him the next day, and spoke with the  
17 U.S. Marshal, and he followed up with me, I think it was that  
18 Monday, to determine what was going on.

19 Q And the statement that you prepared was the one that  
20 you created on your own?

21 A That's correct.

22 Q Before you talked to any law enforcement agent of any  
23 kind?

24 A Yes. I talked to Mike Oliver briefly, but he's not a  
25 law enforcement agent.

1 Q And it was an attempt by you to record those events so  
2 that -- while they were fresh in your mind?

3 A That's correct.

4 Q Did you record in that statement the words that the  
5 defendant used when he confronted you on the street?

6 A I did.

7 Q Did you put that in quotes?

8 A Yes, I did.

9 Q And the quotes that you recorded while the events were  
10 still fresh in your mind was what?

11 A "Snitches, you're a motherfucking snitch. Fuck you. I  
12 will kill you, kill your wife, kill your family."

13 Q What was the tone and the tenor of Mr. Stephens' voice  
14 when he spoke those words to you?

15 A He was -- appeared pissed off, I mean mad at me.

16 Q Had anything like that happened to you before?

17 A No.

18 Q Do you have any doubt in your mind that those were the  
19 words that were spoken?

20 A That's exactly what the words were. I still remember  
21 them today.

22 MR. PORTER: Thank you, Your Honor. Nothing  
23 further.

24 THE COURT: Any recross?

25 MR. BROWN: No.

1 THE COURT: Ladies and gentlemen, if you have any  
2 questions now, if you could utilize the note card. After you  
3 write a question or questions -- you don't have to write any  
4 questions -- I'll have my intern collect 14 cards.

5 (Counsel approached the bench and the following  
6 proceedings were had:)

7 THE COURT: The first card is, "Brian Risley,  
8 attorney 16 years." Then the next line is, "How does  
9 cooperation lighten Mr. Edwards' sentence?"

10 Mr. Porter, do you want to weigh in on that  
11 question?

12 MR. PORTER: I'm not sure that it's relevant, Judge,  
13 but to the extent that it is, I think it's a factor the Court  
14 considers in imposing sentence.

15 THE COURT: Mr. Brown, what is your position as to  
16 the question, "How does cooperation lighten Mr. Edwards'  
17 sentence?"

18 MR. BROWN: I have no objection.

19 THE COURT: Do you have any objection to that being  
20 asked?

21 MR. PORTER: Not beyond what was stated.

22 THE COURT: The second question on this card is,  
23 "Who determined that this go to trial? Mr. Risley or,"  
24 question mark.

25 MR. PORTER: I assume that's referring to Mr.

1 Edwards' case, not this case.

2 MR. BROWN: No. I'm assuming that it was this case,  
3 not Mr. Edwards' case because he pled.

4 THE COURT: I'm assuming it could mean this case.

5 MR. PORTER: Who determined this go to trial? If  
6 the question is, is he going to trial because he's the  
7 complaining witness and therefore he has a right to pursue  
8 this, I think that answer is absolutely unequivocally no. He's  
9 only here because he's a witness and the government is pursuing  
10 the case. He doesn't have a vote in that.

11 MR. BROWN: I don't think this is an appropriate  
12 question of Mr. Risley.

13 THE COURT: So you would object to this question  
14 being asked?

15 MR. BROWN: Yes. Obviously Mr. Porter brought it  
16 up.

17 THE COURT: Do you agree that this second question  
18 shouldn't be asked?

19 MR. PORTER: We join in the objection.

20 THE COURT: I would only ask the first question.

21 MR. PORTER: Okay.

22 The second card says, "Any official evidence that  
23 defendant had ready himself."

24 Is there any objection to that question?

25 MR. PORTER: No. There will be witness testimony

1 about that.

2 THE COURT: So this will be handled later on?

3 MR. BROWN: I mean, the CSOs who were throwing him  
4 out of the courtroom could testify. I don't know. I don't  
5 think it's an appropriate question for Mr. Risley.

6 MR. PORTER: I don't know -- I don't know if Mr.  
7 Risley has any knowledge of that. We never asked him about it,  
8 and we certainly didn't communicate with him about what was  
9 said in the courtroom yesterday because that would have been  
10 improper. So the CSOs are going to testify about that. So I  
11 think that's one of those you can hold off on.

12 THE COURT: We'll hold off on that question.

13 Next card, "Did he feel that the comment in the  
14 hallway justified blocking him from the hallway?"

15 Mr. Porter, I'll let you weigh in first.

16 MR. PORTER: It's a little difficult, Judge, because  
17 there's more than just a comment in the hallway that  
18 precipitated the blocking.

19 THE COURT: So you object to this question?

20 MR. PORTER: Yes.

21 THE COURT: Do you object to this question?

22 MR. BROWN: In its form, yes.

23 THE COURT: Do you have any suggested change or do  
24 you want to just not ask it?

25 MR. BROWN: I don't think we ought to ask that

1 because there's too many variables.

2 THE COURT: The next card is, "Who spoke first  
3 outside when Risley was near his car and defendant was on the  
4 sidewalk?"

5 MR. PORTER: I have no problem with that.

6 MR. BROWN: I have no problem with that. I think  
7 it's been asked and answered.

8 THE COURT: The next card, "Why did Mr. Risley take  
9 it upon himself to restrain Mr. Stephens and not notify court  
10 security, slash, marshals? If notified someone" -- "we may  
11 have not had a confrontation."

12 Is there any objection to the first -- to the actual  
13 question but not the comment?

14 MR. BROWN: Not from me.

15 MR. PORTER: The question is fine.

16 THE COURT: I'll ask the question. I won't say the  
17 comment.

18 The last card is, "Was surveillance video available  
19 of the occurrence in the courtroom or on courthouse grounds?"

20 Is there any objection to that question?

21 MR. BROWN: I think that will be covered with the  
22 CSOs, and Mr. Risley wouldn't have any knowledge of that, and  
23 the CSOs are much more informed to answer this question.

24 MR. PORTER: I agree.

25 THE COURT: That question won't be asked. The final

1 question on this last card is, "Did the witness attempt to or  
2 make any audio recordings of the event?"

3 MR. BROWN: I don't care about that.

4 MR. PORTER: That's a fair question, Judge.

5 THE COURT: So I will circle the portions that I'll  
6 ask questions, and you will be allowed to have any follow-up  
7 questions.

8 MR. BROWN: The conspiracy on Scott -- he's going to  
9 ask, How does it lighten his sentence? If it's -- they need to  
10 know.

11 MR. PORTER: He's given -- he knows the testimony,  
12 not us.

13 MR. BROWN: Well -- and he knows -- I don't know.  
14 I'm asking for my edification. He knows what Mr. Edwards was  
15 facing? I would like to know. Was it a ten to life?

16 MR. PORTER: The conspiracy was a mandatory minimum  
17 ten and a maximum of life.

18 MR. BROWN: Okay.

19 (The proceedings returned to open court.)

20 THE COURT: Thank you, ladies and gentlemen.

21 As I mentioned in my initial instruction, some  
22 questions may not be asked because of the rules of evidence or  
23 because a witness at a later time may address an issue, but  
24 there are some that we will ask at this point. There are four  
25 of them.



1           Mr. Porter, since this is your witness, I'm going to  
2 have you ask these four questions that I've circled and I will  
3 allow both attorneys to do any follow up. You can either do it  
4 after each question or do them as a group. It's your  
5 preference, Mr. Brown.

6           MR. BROWN: Mr. Porter can choose. I don't care.

7           MR. PORTER: Thank you, Judge.

8 QUESTIONS FROM THE JURY BY MR. PORTER:

9       Q       Mr. Risley, the first question is, Did you attempt to  
10 or make any audio recording of the events?

11      A       No, I did not. I didn't have the time and I wasn't  
12 there to do it. So, no, I didn't.

13      Q       So the next question is, Who spoke first outside when  
14 you were near your car and the defendant was on the sidewalk?

15      A       That would be Mr. Stephens. He repeated something  
16 several times. I only said one word, which was "no."

17      Q       The third question is, How does cooperation lighten Mr.  
18 Edwards' sentence?

19      A       He was facing a range of approximately five years at  
20 the time he was sentenced. He'd served 16 months. Well, 16 to  
21 20 months, depending on what counted. By cooperating, the  
22 government asked for 24 months. I argued for probation because  
23 of what he had served, and that's what the Court did.

24      Q       Finally, Why did you take it upon yourself to restrain  
25 Mr. Stephens and not notify court security or the marshals?

1       A           The incident happened quickly. I looked at him. There  
2 was a court security guard standing there. To be honest, I  
3 reacted. My intention was not to restrain him but to create  
4 separation. The whole event from there to outside was 30  
5 seconds or less.

6               THE COURT: Do you have any follow-up questions, Mr.  
7 Porter?

8               MR. PORTER: None at this time, and subject to  
9 follow-up following any inquiry from defense counsel.

10              THE COURT: Mr. Brown, do you have any follow-up  
11 questions?

12 RECROSS-EXAMINATION BY MR. BROWN:

13       Q           According to your statement that you prepared on  
14 September 29th, the first thing Mr. Stephens said was, "You  
15 want to push me again? You want to push me again?" Is that  
16 correct?

17       A           Outside, yes, that is what he said.

18       Q           And how far away from you was Mr. Stephens when he said  
19 that?

20       A           I would have to approximate 30 to 40 feet. I knew I  
21 could get to my car slightly before I thought he could reach  
22 me, but it was pretty close.

23       Q           He had to yell at you, right?

24       A           I don't recall yelling. He talked loud. But I  
25 wouldn't say he was yelling at me.

1 Q And you've indicated Mr. Edwards was looking at about a  
2 five-year sentence. The conspiracy he was charged with carried  
3 a minimum mandatory of ten to life; is that correct?

4 A Yes, it did.

5 Q Did he plead to a lesser-included offense or did he  
6 plead to the conspiracy?

7 A I'm almost certain he pled to the conspiracy. You  
8 raise a good question. I don't know why -- the guidelines,  
9 again, in my memory seemed to be 45 to 60 months.

10 Q But the minimum -- ten-year minimum mandatory would  
11 trump any --

12 A You're correct. Yes, sir.

13 MR. BROWN: Nothing further.

14 FURTHER REDIRECT EXAMINATION BY MR. PORTER:

15 Q And just on that subject of the sentencing exposure  
16 that Mr. Edwards had and in light of that question and the  
17 original question of how does cooperation lessen Mr. Edwards'  
18 sentence, if there is cooperation, then the United States, the  
19 prosecution, can ask the judge to sentence below that mandatory  
20 minimum, correct?

21 A Yes, that is correct. That's the only way.

22 Q And that's what happened in the case of Mr. Edwards?

23 A Yes, it did.

24 Q And so the cooperation is the triggering event that  
25 allows the judge, upon request, to have the authority to

1 sentence less than that mandatory minimum?

2 A That's correct.

3 Q So that's how cooperation lessens a defendant's

4 sentence?

5 A Yes.

6 Q Thank you.

7 THE COURT: Any other questions, Mr. Brown?

8 MR. BROWN: No, Your Honor.

9 THE COURT: You may stand down. Thank you.

10 (Witness excused.)

11 THE COURT: Mr. Porter, please call your next

12 witness.

13 MR. PORTER: Your Honor, may Mr. Risley be excused?

14 THE COURT: Mr. Brown, may he be finally excused?

15 MR. BROWN: I can't think of any reason we need to

16 recall him.

17 THE COURT: You're finally excused.

18 THE WITNESS: Thank you, Your Honor.

19 MS. ORSINGER: The government calls Paul Tyree.

20 G. PAUL TYREE, being sworn by the courtroom deputy, testified:

21 DIRECT EXAMINATION BY MS. ORSINGER:

22 Q Good morning.

23 A Good morning.

24 Q Sir, for the record, please, state your full name

25 spelling your first and last name.

1 A G. Paul Tyree, T-y-r-e-e.

2 Q Mr. Tyree, where are you currently employed?

3 A Here at the courthouse for Walton Security.

4 Q And what is your official title here?

5 A Court security officer.

6 Q Short for that, would that be CSO?

7 A Yes, ma'am.

8 Q And how long have you worked here as a CSO?

9 A About five and a half years here. I worked two and a  
10 half years for Kansas City.

11 Q What do your duties entail?

12 A To provide security for the building, either at entry  
13 controlled points, bailiff-type duties here in the courtroom,  
14 provide security for the personnel here at the courthouse.

15 Q Do you have prior law enforcement experience?

16 A Yes. I was a law enforcement specialist for the United  
17 States Air Force. I'm a retired military member. I was also a  
18 deputy sheriff for Johnson County and Holden Police Department.

19 Q How are your court security officer duties generally  
20 divided each day? Do you work the same post all day or does  
21 that change?

22 A It changes every hour.

23 Q Were you working as a CSO here in Jefferson City on  
24 September 29th, 2016?

25 A Yes, I was.

1 Q And is Jefferson City located here within the Western  
2 District of Missouri?  
3 A Yes.  
4 Q Where were you assigned from 1 to 2 p.m. on that day?  
5 A In this courtroom, 4B.  
6 Q And do you recall where specifically you were located  
7 in this courtroom?  
8 A Yes. I was in the jurors' box sitting where the  
9 gentlemen is in the green shirt.  
10 Q For the record sake, are you designating the front row  
11 of the jury box on the far end?  
12 A Yes.  
13 Q When I say "far end," the seat closest to the gallery?  
14 A Yes.  
15 Q Were there other CSOs in the courtroom on that day from  
16 1 to 2 p.m.?  
17 A There was two others.  
18 Q And who were they?  
19 A James Black, Paul Milne.  
20 Q Were there any other parties located here in the  
21 courtroom during that proceeding?  
22 A There was a defendant, judge, deputy marshals,  
23 attorneys, several people in the gallery.  
24 Q And much like we're situated today, was the AUSA here  
25 at this table?

1 A Yes.

2 Q The table closest to the jury box?

3 A Yes.

4 Q Was defense counsel and the defendant located at the  
5 table there?

6 A Yes.

7 Q The further table away from the jury box?

8 A Yes, ma'am.

9 Q Judge on the bench?

10 A Yes.

11 Q Different judge, though, correct?

12 A Judge Bough.

13 Q And do you recall what type of hearing this was?

14 A It was a sentencing hearing.

15 Q And do you recall approximately what time the  
16 sentencing hearing began?

17 A 1:30.

18 Q Now, are you familiar with the defendant in this  
19 particular case, Mr. Stephens?

20 A I hadn't met him until that day or hadn't talked to him  
21 or seen him until that day.

22 Q When you say "that day," are you referring to  
23 September 29th, 2016?

24 A Yes, ma'am.

25 Q Did you in fact observe Mr. Stephens on that day?

1 A Yes.

2 Q Where do you recall the defendant being located, so the  
3 defendant, Mr. Stephens, being located in the courtroom on that  
4 day?

5 A In the gallery first row. It would be the left side to  
6 me, to myself here.

7 Q So the first row closest to the jury box?

8 A Yes.

9 Q Where was the defendant, Vershawn Edwards, located?

10 A He was at the end of the table, if I remember right.  
11 At the end of that table there on the right.

12 Q The defense table we referred to previously?

13 A Yes.

14 Q And you stated his attorney was located with him?

15 A Yes.

16 Q Were there other people in the gallery besides Mr.  
17 Stephens?

18 A There was several people in the gallery.

19 Q And did they all appear to be together?

20 A There looked to be three different groups. There was  
21 some law enforcement that I recognized. There was three family  
22 members of Mr. Edwards that were separate from the other people  
23 that was in the gallery. They were in the back row almost in  
24 the middle on the right side.

25 Q So back row on the right side. So the benches closer



1 to the door?

2 A Yes.

3 Q Do you recall approximately what time the sentencing  
4 hearing concluded?

5 A About a quarter till, 1:45.

6 Q And did there appear to be any reaction to the sentence  
7 that was pronounced?

8 A Yes. I could tell that three people were happy besides  
9 the defendant. There was a little bit of noise. You could  
10 tell people weren't real happy with the way it went, the  
11 sentencing.

12 Q Was there any movement about the gallery once the  
13 sentencing hearing concluded?

14 A Yes. Mr. Stephens had gotten up and started to walk  
15 towards the door. You want me to just tell you what happened,  
16 what I remember happening?

17 Q Yes. Please.

18 A As he walked towards the door, I had a premonition  
19 something was going to happen, and that's part of our job to  
20 recognize something happening. So I got up from my seat and  
21 proceeded towards the door; and as I did, I heard someone tell  
22 him from the gallery to let it be, let it go, something to that  
23 effect. And he kept going towards the door. At that time I  
24 noticed that Mr. Risler [sic] was at the door and he was  
25 blocking the door trying to prevent Mr. Stephens from going out

1 the door.

2 Q Had you observed where those three women were located  
3 at that time, the three you described earlier being in the back  
4 on the right-hand side?

5 A They had already left.

6 Q And when you described -- is it Mr. Risley? Does that  
7 sound --

8 A As the attorney?

9 Q Yes.

10 A Yes.

11 Q Which door are you describing that you said Mr. Risley  
12 was blocking?

13 A The exit to my right, the far door to the right, over  
14 here.

15 Q So there is a set of doors. There's a first door here  
16 that's in the courtroom, then there is a second door. Are you  
17 talking about this first door?

18 A Yes, the inner doors here.

19 Q And did you observe whether Mr. Risley and the  
20 defendant, Mr. Stephens, touched each other in any way?

21 A It appeared that he was touching Mr. Mr. Risler because  
22 he was trying to get past him. He was trying to block the  
23 doorway by his movements back and forth to keep him from going.

24 Q And you said he appeared he was touching Mr. Risley.  
25 Is it he, Mr. Stephens, touching Mr. Risley?

1       A       Yes, trying to get past him.

2       Q       Did you ever observe Mr. Risley push Mr. Stephens in  
3 any way?

4       A       No.

5       Q       And when you say Mr. Risley appeared to be blocking the  
6 doors -- or the door, what was he physically doing to block the  
7 door?

8       A       He was moving his body from the left to the right,  
9 matching Mr. Stephens' movements.

10      Q       Did Mr. Stephens respond verbally in any way?

11      A       I remember him telling him to get out of his way, and I  
12 remember Mr. Risler telling him, You're not going to talk to  
13 those three girls, those three women.

14      Q       Was the defendant, Mr. Stephens, cursing in any way at  
15 that time?

16      A       I don't recall at the door, but the cursing started.

17      Q       The implication is was there cursing later?

18      A       Yes.

19      Q       So how did -- at some point did the parties make it  
20 through this first door here in the courtroom?

21      A       Yes. After I told Mr. Stephens we're leaving the  
22 courthouse, Mr. Risler got out of the way, and we started to  
23 walk through the door out into the hallway.

24      Q       And when you said that, did you identify yourself in  
25 any way?

1       A       No.

2       Q       Were you wearing the same uniform you're wearing today?

3       A       Yes, ma'am.

4       Q       And you told Mr. Stephens that you guys were -- he was

5       leaving the courthouse. So what happened once you get through

6       this first door?

7       A       That's when the cussing, calling us different names as

8       we were -- I want to use the word "push," and what I mean by

9       push is our pure body mass, trying to keep that person from

10      going behind us back into the courtroom. In no way did I touch

11      him or did he touch me. We kept pushing him to go out the door

12      towards the elevator.

13      Q       So when you say "push," you mean essentially you're in

14      his personal space?

15      A       Yes, ma'am.

16      Q       So you're walking and sort of leading him on his way

17      out without touching him?

18      A       Yes.

19      Q       When you say "we," who is we?

20      A       James Black, another CSO.

21      Q       Okay. So Mr. Risley's not involved in this event?

22      A       No.

23      Q       In fact, once you appeared at the doorway and you were

24      there, Mr. Risley left; is that accurate?

25      A       Yes. He got out of our way. I don't know where he

1       went from there.

2       Q           And you said he was cursing. Who is he?

3       A           Mr. Stephens.

4       Q           And do you recall specifically what he was saying?

5       A           Pardon my language, but he was calling us  
6 motherfuckers. At one point, "I wish you would die," he said  
7 to me.

8       Q           At some point did you, CSO Black, and Mr. Stephens make  
9 it through that second set of doors and you're in the hallway?

10      A           Yes. We're working our way down the hallway almost to  
11 the restroom that is on the right-hand side before you get to  
12 the elevator. He asked if he could use the restroom. We  
13 agreed to let him use the restroom. There's no exit or entry  
14 but the one, so we agreed to let him use the restroom.

15      Q           When was this request? Where and when? Where were you  
16 located physically when this request to use the restroom was  
17 made by the defendant?

18      A           Between halfway to the restroom or just before the  
19 restroom doors.

20      Q           So within these doors here in the courtroom, the  
21 defendant's not making any statements, "I need to use the  
22 restroom," "let me go," anything like that?

23      A           I don't recall that, no.

24      Q           So you allowed him to use the restroom. You mentioned  
25 there being only one entrance and exit. Did you go into the

1     restroom with him?

2     A         No.

3     Q         So you stayed in the hallway?

4     A         Yes.

5     Q         And who is present in the hallway at that time?

6     A         James Black and then a woman who identified herself as

7     his mother was in the hallway with us immediately, at the

8     immediate area.

9     Q         When you say "his mother," is that the defendant's

10    mother?

11    A         Yes, ma'am.

12    Q         And at some point did another CSO join you?

13    A         Paul Milne came out into the hallway.

14    Q         And Paul Milne, was he originally located in the

15    courtroom as well?

16    A         Yes, he was.

17    Q         Was anything decided while the defendant was in the

18    restroom?

19    A         I had it in my mind that immediately at the door that

20    he was leaving the courthouse. So I had already decided. Mr.

21    Black had told me that, "I think we need to take him outside."

22    And that's when I told him, "I have every intention of doing

23    that."

24    Q         So as a group, you collectively agreed that Mr.

25    Stephens at that point would be removed from the courthouse?

1 A Yes.

2 Q What happened once Mr. Stephens exited the restroom?

3 A Well, just prior to that, his mother was tugging on my  
4 arm asking me to please let him stay, and then she said she was  
5 having some chest pain and having difficulty standing there. I  
6 guided her over towards where there's like little benches, and  
7 I told her that he is going to leave, that he's being  
8 disruptive, that he needs to leave. I asked her if I needed to  
9 call anybody for her. She said she would be okay.

10 When he came back out, I tried to reason with him to  
11 calm him down because he was just as fired up then as he was  
12 before. I tried to calm him down by telling him his mother was  
13 having some problems with her chest and to please calm down for  
14 her sake as we leave the courthouse. And he didn't seem to  
15 mind that at all. He didn't react to it at all.

16 Q Do you recall Mr. Stephens saying anything to you all,  
17 you and Mr. Black, at that time?

18 A Just cussing.

19 Q And what did you do at that point?

20 A Continued to escort him to the elevator.

21 Q And were you able to get Mr. Stephens, the defendant,  
22 into the elevator?

23 A Yes. Someone had brought the elevator up, a  
24 maintenance worker was in the elevator. He exited. We got on  
25 the elevator, just the three of us; James Black, myself, and

1 Mr. Stephens went downstairs.

2 Q Did Mr. Stephens, the defendant, say anything during  
3 the elevator ride to the first floor?

4 A Again just cussing, cussing at us, cursing at us.

5 Q What happened once you reached the first floor of the  
6 courthouse?

7 A Directed him to the front doors which the two CSOs  
8 downstairs already had the glass doors open waiting for us to  
9 take him through the door. So I escorted him through the doors  
10 to the main doors. As we got to the first door -- there's two  
11 double doors there -- he turned to me, told me, "I hope you die  
12 and your whole family dies," and I just waited for him to get  
13 to the second door. Once I saw him leaving the front of the  
14 door, I turned around and told my supervisor what had happened  
15 in the courthouse because my supervisor was working the front  
16 lobby area.

17 Q When you described going out the double doors on the  
18 first floor, those two entry/exit ways; is that correct?

19 A Yes.

20 Q One on the right and one on the left?

21 A Yes.

22 Q Which set of doors?

23 A To the left.

24 Q At any point in time did you ever physically touch the  
25 defendant?



1       A       No.

2       Q       After the defendant was removed from the courthouse,  
3 what did you do? Where did you go?

4       A       After telling my supervisor what had happened up here  
5 in the courtroom, James Black and I reported back up here. We  
6 knew there was another hearing going to be beginning so I  
7 needed to get back to my post.

8       Q       Did you remain in this courtroom, 4B, after 2 p.m.?

9       A       No. I was relieved at 2 p.m.

10      Q       Where did you go to at 2 p.m.?

11      A       My post was the lobby.

12      Q       Down on the first floor?

13      A       Yes, ma'am.

14      Q       You mentioned earlier your duties, including entry  
15 control points?

16      A       Yes.

17      Q       But for the first floor entryway, do defense attorneys  
18 have any other entry points into the courthouse?

19      A       The ones that don't directly work for the U.S.  
20 government has other entry control points.

21      Q       So I think what you're saying is AUSAs have different  
22 entry points; is that accurate?

23      A       That they can get into the building, yes.

24      Q       But defense attorneys, so nongovernment employees?

25      A       One entry controlled point.

1 Q And is that the front door?

2 A Yes.

3 Q Did you ever observe -- I'm sorry. You said you were  
4 at the front entry from 2 to 3 p.m. Did you ever observe Mr.  
5 Risley leave the courthouse that day?

6 A No, I did not.

7 Q Did you ever observe the three women you had described  
8 having been present in the back of the courtroom for the 1:30  
9 sentencing hearing, did you ever observe them leave the  
10 courthouse?

11 A I did not.

12 Q Did you make any observations of the defendant while  
13 you were working the front lobby or front door from 2 to 3  
14 p.m.?

15 A I noticed that he stayed pretty much across the  
16 courtyard. There is a small wall and there is also like a  
17 little pillar directly across. He was sitting on those two  
18 things at different times, but he generally stayed right there.

19 MS. ORSINGER: If we could display what's already  
20 been admitted as Government's Exhibit 15 and display it to the  
21 jury as well.

22 Q (By Ms. Orsinger) Using Government's -- my screen is  
23 not working so I will have to have you test it. Can you tap in  
24 the upper left-hand corner where it says color change, tap on  
25 the screen. Or change color.

1       A       I don't have that screen that says change color.

2       Q       On the edge of the screen itself.

3       A       I can touch where the towers are at.

4       Q       Perfect. Using your finger, could you describe -- or

5 show for the jury where you described that pillar area where

6 the defendant appeared to be located?

7       A       The left-hand side of that little, I guess it's a

8 corner there where I made that little mark.

9       Q       For the record sake, what's depicted -- the sort of

10 upside-down V, is that the federal courthouse?

11      A       Yes, straight ahead.

12      Q       And directly below that there appears to be a circle?

13      A       That is what I described as the courtyard.

14      Q       And what you marked on here would be the bottom or

15 about six o'clock of that circle; is that accurate?

16      A       Yes, ma'am.

17      Q       Do you recall when you -- approximately when you first

18 observed the defendant out in this courtyard area?

19      A       Probably about the time I got down, about five minutes

20 after two.

21      Q       So 2:05?

22      A       2:05.

23      Q       The individual you described exiting the courtroom

24 cursing at you and others and escorting out of the courthouse

25 on September 29th, 2016, do you recognize him present in the

1 courtroom today?

2 A Yes.

3 Q And for the record can you please describe where he's  
4 currently located and what he's wearing?

5 A From my vantage point I can see an orange T-shirt, a  
6 gray and brown sweater. He's standing up for us.

7 Q Thank you.

8 MS. ORSINGER: Please let the record reflect he's  
9 identified the defendant.

10 THE COURT: The record will so reflect.

11 Q (By Ms. Orsinger) Couple additional questions. As you  
12 were escorting the defendant out, at any point in time did you  
13 observe whether he had urinated himself?

14 A No.

15 Q Is part of your duties -- at some point do you monitor  
16 cameras in the building?

17 A Yes, we do.

18 Q And the cameras in the courtroom, do they -- are you  
19 familiar whether or not they record?

20 A I believe they do. It's not in my duties to be able to  
21 pull up that information.

22 Q Are you in charge of maintaining videos for the  
23 courthouse?

24 A No.

25 Q And when you described the defendant being removed from

1 the courthouse on the first floor, was Mr. Risley anywhere  
2 within the area?

3 A I did not see Mr. Risley from the moment we went  
4 through the doors until the time I came back up I never saw him  
5 again.

6 Q Based upon your observations in the courtroom on that  
7 day, was -- I think you described it -- I don't want to  
8 misstate your words -- that something was about to happen; is  
9 that accurate?

10 A Yes, ma'am.

11 Q And is that in relation to parties leaving the gallery  
12 area?

13 A That's at any time. That could be on any post that  
14 we're at. To be able to recognize the way a person is walking,  
15 trying to hide something, trying to start some type of trouble.

16 Q And what specifically was it about the defendant that  
17 gave you concern?

18 A He was doing a lot of -- like I'm moving my head back  
19 and forth, an exaggerated type movement in the gallery, not  
20 agreeing with what was being said during the sentencing. The  
21 comments that one of the women made in the gallery as he was  
22 walking by not to do something. That's when I got up to ensure  
23 that he was going to walk out and not possibly harass somebody.  
24 I suspected that he was going to harass the three women.

25 Q Based upon that, do you believe Mr. Risley blocking the

1 door was appropriate?

2 A Yes. I think he was going to say or do something to  
3 those three women, yes.

4 Q Thank you.

5 MS. ORSINGER: The government passes this witness.

6 THE COURT: Any cross?

7 MR. BROWN: Yes, Your Honor.

8 CROSS-EXAMINATION BY MR. BROWN:

9 Q Mr. Tyree, as I understand your testimony, you were on  
10 the 29th at 1:30, for the 1:30 proceeding?

11 A Yes, sir.

12 Q You were sitting over here at the end of the jury box?

13 A Yes, sir.

14 Q And there were two other CSOs in the courtroom?

15 A Yes.

16 Q And there were marshals in the courtroom?

17 A Yes, sir.

18 Q Do you recall how many?

19 A I remember one police officer that was hired as a  
20 guard, and I remember a deputy marshal being in there.

21 Q So at least two -- that's five law enforcement officers  
22 kind of in the courtroom that we've identified at this point?

23 A Yes, sir.

24 Q And was there a case agent or any other federal agents  
25 sitting at the prosecution's table or anywhere else in the

1 courtroom just to observe?

2 A I believe there was possibly one at the table, but  
3 there was other law enforcement that I recognized.

4 Q Sitting out in the gallery?

5 A Yes, to the left, though, to the left area over here.

6 Q Over here?

7 A Yes, sir.

8 Q Behind Mr. Stephens?

9 A Yes.

10 Q Okay. And you're not far from that -- if you're  
11 sitting in the jury box, that first chair in the jury box,  
12 you're not far from that first bench where Mr. Stephens was?

13 A That's correct.

14 Q Can you overhear -- if there was a conversation or  
15 comments were being made from somebody sitting on that first  
16 bench and you're sitting here, do you think you could hear  
17 them?

18 A Depending on how loud they were, yes.

19 Q And you don't recall Mr. Stephens making any comments.  
20 You say he was making body gestures, but he didn't make any  
21 comments that you heard?

22 A I didn't hear him make any comments, no.

23 Q Now, you've indicated there was some sort of a  
24 confrontation between Mr. Risley and Mr. Stephens at this first  
25 door?

1       A       Yes, sir.

2       Q       And you got up and went over to that door where Mr.

3       Risley was blocking Mr. Stephens from leaving?

4       A       That's correct, sir.

5       Q       And did Mr. Risley at any time go to the second set of

6       doors at the alcove and motion these women away while still

7       blocking Mr. Stephens?

8       A       I don't recall him doing that, no.

9       Q       You didn't see that?

10      A       I did not.

11      Q       Now, you've talked about some video surveillance.

12      There are lots of cameras in this building; is that true?

13      A       That's true. Yes, sir.

14      Q       And you have video surveillance available to you all

15      around the building, right?

16      A       There is two posts where I could look at video.

17      Q       I understand. But there's surveillance cameras?

18      A       Are you asking, sir, if I'm able to go back and look at

19      video footage that has already happened?

20      Q       Well, I'm going to get there, so, yeah, sure, if that's

21      the answer. Can you go back and look at video footage of what

22      various cameras around this courthouse have recorded?

23      A       I cannot.

24      Q       But your supervisor could or there's at least someone

25      in the marshal's office that could?



1       A           That's correct.  There is somebody in the marshal's  
2 office that could.

3       Q           And if you wanted to, you could ask whoever's  
4 responsible for that to let you review the recorded pictures  
5 that have been taken from any of these various cameras; and if  
6 there was an official reason or whatever, you don't think there  
7 would be any problem with that, do you?

8       A           I've never heard of anybody asking to do that.

9       Q           Well, didn't Mr. Abram ask to review some of the video  
10 footage?

11      A           I'm not aware of that, no.

12      Q           But he probably asked your supervisor or somebody at  
13 the marshal's office that's responsible for that?

14      A           My supervisor is also a contract guard just like me.

15      Q           And Amy Matous up at the marshal's office is actually  
16 one that supervises the CSOs both here and Kansas City?

17      A           Yes, sir.

18      Q           And -- well --

19                   MR. BROWN:  Could you pull up the courthouse  
20 photograph?

21                   MS. ORSINGER:  Are you referencing Government's  
22 Exhibit 15?

23                   MR. BROWN:  Yeah, the one you just used.

24      Q           (By Mr. Brown)  Can you see that?

25      A           Yes, sir.

1 Q This parking lot down below, that's on my screen  
2 anyway, it's to the left of the screen, it doesn't appear to be  
3 any cars parked in there, but at least when this aerial was  
4 taken. Down there. Do you see what I'm talking about?  
5 A Yes, sir, the one on State Street.  
6 Q There's a pole camera there where you drive in, I'd  
7 guess about halfway between the entrance and the back of that  
8 parking lot, right?  
9 A There's one on each end of that parking lot, a fixed  
10 camera.  
11 Q Right. So on both ends of the parking lot?  
12 A Yes, sir.  
13 Q So there's video surveillance going on down at the  
14 parking lot all the time?  
15 A Yes.  
16 Q How about the sidewalk? If I park down there and I  
17 walk up to what you've called the courtyard, cut over and enter  
18 the courthouse, am I under surveillance from video cameras that  
19 whole way?  
20 A From the parking lot up State Street to the front?  
21 Q Yes.  
22 A Yes. Pretty much, yes.  
23 Q Cameras would show what was going on on that sidewalk  
24 on State Street?  
25 A Yes, sir.

1 Q And when I enter the courtyard, am I still under  
2 surveillance?  
3 A Yes.  
4 Q And I'm under surveillance all the way until I get to  
5 the entry of the courthouse?  
6 A Yes.  
7 Q And as a defense attorney, the only way I can get in  
8 the courthouse is going through the metal detector there at the  
9 front entry?  
10 A Yes, sir, that's correct.  
11 Q Other lawyers, like AUSAs, they may be able to get in  
12 someplace else, but that's the only way I get in?  
13 A Yes, sir.  
14 Q And once I go through the metal detector down there, am  
15 I under surveillance in the lobby area of the first floor?  
16 A There is areas of the lobby that's covered, yes.  
17 Q Most of the lobby would be covered?  
18 A Yes. I'd say most of the lobby is covered.  
19 Q Then when I get on the elevator to come up to the  
20 fourth floor, am I on surveillance?  
21 A I'm not aware of any cameras in the elevator.  
22 Q When I exit the elevator into the hallway of the fourth  
23 floor, am I on surveillance?  
24 A Yes.  
25 Q And as I turn left out of the elevator and walk down

1 here to 4B, I'm on surveillance?

2 A Yes, sir.

3 Q When I enter the outer doorway to that vestibule, under  
4 surveillance?

5 A No.

6 Q And when I actually enter the courtroom, is the  
7 courtroom under surveillance?

8 A Most of it.

9 Q Okay. So those are the areas that are under  
10 surveillance and at least it's your understanding, although  
11 it's not your responsibility, that those recordings -- or those  
12 images are recorded in real time?

13 A I've never looked at a recording.

14 Q Okay. What's your understanding?

15 A That some cameras are capable and some, I believe, are  
16 not.

17 Q Well, we'll ask someone else probably.

18 Now, you approach Mr. Stephens. You tell him we're  
19 putting you out of the courthouse?

20 A I told him he needed to leave the courthouse, yes.

21 Q Okay. That point he got angry and essentially he's  
22 cussing you from the time you leave the hallway on the fourth  
23 floor, down the elevator, out the front door where you all  
24 leave him, right?

25 A Except for the time he's in the restroom, yes.

1 Q Well, you all didn't follow him into the restroom?  
2 A Did not.  
3 Q And he asked to go into the restroom?  
4 A He did ask, yes.  
5 Q And you didn't have a problem with it because there's  
6 no place else for him to go?  
7 A Yes, that's correct.  
8 Q And did you check to make sure anyone else was in the  
9 restroom when you let him in?  
10 A I did not, no.  
11 Q Do you recall about how long he was in there?  
12 A Three to four minutes at the most.  
13 Q And he was still angry when he came out?  
14 A Yes, sir.  
15 Q Still cussing you?  
16 A Yes, sir.  
17 Q And I think, if I recall your testimony correctly,  
18 there was an older woman in a walker who pleaded with you to  
19 let him stay?  
20 A Yes.  
21 Q And you and Mr. Black leave him out on the courthouse  
22 steps, right?  
23 A Yes. I made sure he made it through the doors and the  
24 door was closed, then he was outside.  
25 Q Okay. And at some point -- you never had any -- you

1 never had any physical confrontation with him?

2 A No.

3 Q He wasn't resisting you physically?

4 A He did not.

5 Q He was saying ugly things and he was cursing you?

6 A Yes.

7 Q But wasn't resisting you physically, didn't threaten

8 you in any way?

9 A Not physically.

10 Q Well, he said, "I hope you die and I hope your family

11 dies," but that's not a threat, is it?

12 A I would never tell anybody I hope their family dies or

13 I die in doing their job.

14 Q I understand. That's an ugly statement.

15 A Yes.

16 Q But it's not a threat. It's an expression of hope,

17 right, for a bad thing?

18 A Did you say hope?

19 Q That makes it an ugly statement but it's not a threat,

20 right?

21 A I took it as a threat.

22 Q Okay. Now, you had this premonition that he might be a

23 problem because of his body movements, correct?

24 A He got my attention with the body movement.

25 Q And you've been doing this a long time. You've been a

1 court security officer a long time, right?

2 A A few years, yes, sir.

3 Q So you developed this sixth sense or intuition or  
4 whatever about --

5 A It's what I call sizing somebody up. As a police  
6 officer, it's something that you need to do very quickly. Your  
7 life depends on it.

8 Q Okay. And you used that in your duties as a CSO?

9 A Yes, sir.

10 Q And as I understand your comments or your testimony,  
11 Mr. Stephens never made any comments to anybody in the gallery  
12 or anything like that before he got up to leave?

13 A No. I didn't say that he didn't make a comment. I  
14 didn't hear what the comment was. After a woman made the  
15 comment about him to leave it alone, he made a comment back. I  
16 didn't hear it. I didn't hear what he said.

17 Q Okay. The next thing you hear him say is, "Get the  
18 fuck out of my way," or something to that effect to Mr. Risley?

19 A Yes.

20 Q Is it my job as a defense lawyer to control what goes  
21 on in the courtroom?

22 A I don't know what a defense attorney's job is.

23 Q I understand. But, quite frankly, if there was a  
24 ruckus or something going on in the courtroom, you would prefer  
25 that I stay out of your way and not participate in that, right?

1       A           I don't know. As a Good Samaritan I guess people get  
2 involved with things all the time. I can understand somebody  
3 trying to protect somebody until somebody else can take care of  
4 it. I was a few steps behind. I was there almost immediately  
5 when this incident happened.

6       Q           And when you got to the first doorway there, you got it  
7 under control, right?

8       A           I believe it was, yes, sir.

9       Q           And so Mr. Risley goes on and walks through the second  
10 door and there's no confrontation with Mr. Risley?

11      A           I don't know where he went, sir. My focus was on Mr.  
12 Stephens to get him out of the courtroom, the courthouse. I  
13 don't know where he was at.

14                   MR. BROWN: That's all I have, Your Honor.

15                   THE COURT: Any redirect?

16                   MS. ORSINGER: Yes. Just briefly. Thank you.

17 REDIRECT EXAMINATION BY MS. ORSINGER:

18      Q           You were asked about law enforcement being present in  
19 the courtroom. I just wanted to be clear, as best you can  
20 recall, where they were all located. So CSOs were present in  
21 the courtroom, and you had put yourself -- I'm going to call it  
22 Juror No. 7's place; is that accurate?

23      A           Yes, ma'am.

24      Q           Do you recall where CSO Black was located?

25      A           The first time he was at the back of the courtroom. He



1 was either in a chair or at the very end of that pew at the  
2 very back. When we came back, he sat with me up here.

3 Q And CSO Milne was present as well, correct?

4 A Yes.

5 Q Where was he?

6 A He's over where the CSO is today, in that area.

7 Q So to your right?

8 A To my right, yes.

9 Q He sat in a chair in that area?

10 A I think he was standing pretty much at that time, yes.

11 Q So you had described yourself and CSO Black responding  
12 to the incident at the door; is that accurate?

13 A Yes, ma'am.

14 Q And as that transpired, you just happened to be the  
15 first CSO to arrive; is that accurate?

16 A Jimmy was on my -- James Black was on my heels.

17 Q You call him Jimmy for short?

18 A Yes, ma'am.

19 Q And any U.S. Marshals, do they generally sit in the  
20 gallery or are they generally in front of the bar?

21 A On this side of the bar. There's usually one somewhat  
22 where the gentleman is there today, and there's usually one  
23 sitting in this general area.

24 Q Just so we're clear, the gentleman you're referring to  
25 is the gentleman in the suit on this side of the bar --

1       A       Yes.

2       Q       -- closest to the Court?

3       A       Yes.

4       Q       There was a defendant that was in custody in that

5       sentencing hearing at 1:30, correct?

6       A       That's correct.

7       Q       Who is responsible for that defendant that's in

8       custody?

9       A       The marshals.

10      Q       So their duty is primarily for the defendant?

11      A       Yes.

12      Q       And as the name describes, courtroom security officer,

13      is your duty related to the security of this courtroom?

14      A       That's correct.

15      Q       So that may be up here, but it may be what's going on

16      in the gallery as well?

17      A       Yes.

18      Q       When you mentioned observing movements and reactions by

19      the defendant, Mr. Stephens, just for clarity sake, was that

20      during and after the sentencing hearing?

21      A       Yes, during and after.

22      Q       There was a long discussion about surveillance video,

23      cameras. Earlier in your direct you had mentioned that that is

24      not one of your primary duties to maintain. That's something

25      that your supervisor is maintaining and/or what's recorded --

1 it's above your pay grade?

2 A I'm taking maintaining as someone who is able to go in  
3 and take video off, record it. Us, as CSOs, we have access to  
4 the video cameras down in the lobby and in our control center,  
5 but we do not have access to be able to play back anything.

6 Q Or to personally record it?

7 A Cannot.

8 Q And the cameras themselves, do they have default  
9 settings? So directions they are by default pointed?

10 A Yes.

11 Q And you had mentioned the cameras in the courtroom.  
12 Are you able to manipulate or move those cameras when you're in  
13 the control center?

14 A Not the one in the courtroom.

15 Q And so does it depict the entire courtroom?

16 A No, it does not.

17 Q What's not depicted?

18 A It will pick up maybe the first row, maybe the first or  
19 second person on each side of that row. It will pick up part  
20 of the jury and also where everybody is sitting on this side of  
21 it. It's focused dead center on the judge is where it's  
22 focused at.

23 Q You said the parties on this side, your right side  
24 again?

25 A Yes.

1 Q Does it depict the doorway?

2 A No.

3 Q And, again, this is a fixed camera, one that cannot be  
4 moved?

5 A Correct.

6 Q You talked about observing the screens down in the  
7 front lobby. How many screens are there down there?

8 A There's two.

9 Q So you're only able to see two views at one time?

10 A That's correct.

11 Q And you mentioned that you were observing the defendant  
12 outside near the pillar through one of those cameras; is that  
13 accurate?

14 A I could see him through there, but I could also see him  
15 through the glass doors.

16 Q The cameras outside as well, do they have a default  
17 setting?

18 A Yes.

19 Q So when you're asked about whether someone's under  
20 surveillance, the entire time they walk to the parking lot to  
21 the front door of the courthouse, would that require the  
22 cameras to be manipulated or moved?

23 A There's a couple of the cameras that, if I recall, they  
24 do not have a default setting that is outside of the building.  
25 There is at least two that I know of that go to a default

1 setting.

2 Q Okay.

3 A So if it's pointed to say the sallyport area where  
4 prisoners are transported in, that's where it will stay, that  
5 specific camera.

6 Q Are you aware of one camera that can be manipulated so  
7 you can observe the entire area outside the courthouse?

8 A Maybe one complete side of a building, but you cannot  
9 see around the corner to see the other side of the building  
10 with that camera. You would have to bring up another camera to  
11 do that.

12 Q So it may require manipulating multiple cameras?

13 A If you want to follow someone, you would have to be  
14 clicking along different cameras.

15 Q And is that something that would be done at the front  
16 lobby?

17 A It can be but our duties as the entry control point  
18 sometimes you're too busy to do that. The control center  
19 monitors the cameras.

20 Q Okay. So that would require someone being present in  
21 the control center manipulating the cameras?

22 A Yes.

23 Q Did Mr. Risley ever play any role in removing the  
24 defendant from the courthouse?

25 A No.

1 MS. ORSINGER: Nothing further. Thank you.

2 THE COURT: Any recross?

3 RECROSS-EXAMINATION BY MR. BROWN:

4 Q The only role Mr. Risley played in the exit was  
5 blocking the door, right?

6 A Yes.

7 Q Is the control center -- are the cameras manned all the  
8 time?

9 A Yes, it is.

10 THE COURT: Excuse me. I don't want to -- Mr.  
11 Brown, I really want you to limit your questions as to  
12 relevancy on courthouse security. Any details please limit  
13 your scale.

14 Q (By Mr. Brown) The control center's manned all the  
15 time during the day anyway; is that true?

16 A Yes.

17 MR. BROWN: That's all I have.

18 THE COURT: Ladies and gentlemen, if you have  
19 questions, I want you to write your question or questions down  
20 or turn in a blank card.

21 And, Mr. Brown and Ms. Orsinger, if you could  
22 approach.

23 (Counsel approached the bench and the following  
24 proceedings were had:)

25 THE COURT: Mr. Brown, did you have additional

1 questions that you wanted to ask this witness on security or  
2 were you through?

3 MR. BROWN: No. No, I was done. No.

4 THE COURT: Can you understand my point?

5 MR. BROWN: Yes, absolutely.

6 THE COURT: Okay. I just wanted the record to be  
7 clear that I didn't limit you in some way.

8 MR. BROWN: No, I wasn't limited.

9 THE COURT: Thank you.

10 MR. BROWN: Mr. Stephens needs to go to the  
11 restroom.

12 THE COURT: Would you like to take a recess? What  
13 time is it now?

14 MR. PORTER: Almost noon.

15 THE COURT: How long do you want a noon break?

16 MR. PORTER: Shorter the better.

17 THE COURT: What time do you suggest? If it's now  
18 noon, how long would you like?

19 MR. BROWN: See Redmon or just take him to the  
20 bathroom?

21 THE COURT: Do you want a break for two hours?

22 MR. BROWN: No, no, no.

23 MS. ORSINGER: You're asking for a lunch break?

24 THE COURT: If you want to break now, when do you  
25 want to return?

1 MR. BROWN: If we were back by 1:30, I think that  
2 would be -- I'm not going to spend a lot of time with him.

3 THE COURT: We'll discuss this.

4 (The proceedings returned to open court.)

5 THE COURT: Ladies and gentlemen, we're now going to  
6 take our noon recess, and we will recess until 1:30. I would  
7 ask you to be back in the jury deliberation room at 1:30.  
8 That's an hour and a half.

9 (The following proceedings were had in the courtroom  
10 out of the presence of the jury:)

11 THE COURT: Please be seated.

12 The defendant can be excused.

13 For housekeeping, should we review the questions --  
14 and you can stand down but be available at 1:30.

15 THE WITNESS: Okay, ma'am.

16 MR. BROWN: Sure. We can review the questions.

17 THE COURT: The first question is, "Has video  
18 recording been viewed to see incident?"

19 Any objection to that question, Ms. Orsinger?

20 MS. ORSINGER: This witness won't have personal  
21 knowledge to that question.

22 MR. BROWN: And he's already testified that he  
23 didn't.

24 THE COURT: Is that something that may be covered at  
25 a later time?



1 MS. ORSINGER: Yes.

2 THE COURT: The next card is, "What about the  
3 cameras above judge? Does not point to entryway, question  
4 mark? Who's in charge of camera when trouble arises?"

5 Is there any objection or will that be covered at a  
6 later time?

7 MR. PORTER: I can do it through Cody Abram and his  
8 testimony about his attempt to secure surveillance video  
9 footage, or some other member of the U.S. Marshal staff will be  
10 able to cover that issue.

11 THE COURT: Do you join in that objection?

12 MR. BROWN: Yes.

13 THE COURT: Next question, "Why was Stephens allowed  
14 to stay on property?"

15 Any objection?

16 MR. BROWN: I'm not sure he knows but I don't care  
17 if they ask.

18 MR. PORTER: I'm not sure if he knows either, but I  
19 could tell you the answer to the question if you want to know  
20 the answer.

21 THE COURT: I don't want to know.

22 MS. ORSINGER: The answer will come out through  
23 another witness.

24 THE COURT: Do you both object to this being asked  
25 at this point?

1 MR. BROWN: I don't object but I don't know that  
2 it's something that he knows.

3 MR. PORTER: I don't think we're going to get any  
4 further along with him being asked that question.

5 MR. BROWN: Right.

6 THE COURT: Okay. We won't ask that one.

7 The next card, "At any time after Mr. Stephens left  
8 the restroom, did he complain about having urinated on himself  
9 and how might it have been avoided if he had been able to get  
10 to the restroom sooner?"

11 MS. ORSINGER: The government has no objection.

12 MR. BROWN: I don't care.

13 THE COURT: Then we will allow Ms. Orsinger to ask  
14 this question. And it's actually a compound sentence. Do you  
15 want to split that into two questions? Only ask the first.  
16 Split it into two and ask both portions. And let Mr. Brown  
17 weigh in.

18 MS. ORSINGER: It's a compound question. I think it  
19 needs to be clear that asking if at any time Mr. Stephens  
20 stated how it might have been avoided if he had been able to  
21 get to the restroom rather than coming out as a statement, if  
22 that makes sense.

23 THE COURT: What is your position, Mr. Brown?

24 MR. BROWN: I don't care.

25 THE COURT: Okay. That makes sense to me, Ms.

1 Orsinger. So the first question will be, "At any time after  
2 Mr. Stephens left the restroom did he complain about having  
3 urinated on himself?" The second question will be, "Did Mr.  
4 Stephens state how it" -- the second question will be, "If so,  
5 did Mr. Stephens state how it might have been avoided if he had  
6 been able to get to the restroom sooner?"

7 Any objection?

8 MS. ORSINGER: Not from the government.

9 MR. BROWN: No.

10 THE COURT: The next card, "Do you offer assistance  
11 to people getting to their cars when situations could possibly  
12 be volatile?"

13 MR. BROWN: I don't have any objection.

14 MS. ORSINGER: I don't have any objection.

15 THE COURT: The next card.

16 MR. PORTER: Judge, I assume it says, Do you -- do  
17 the court security officers or do the -- I mean, it's not him  
18 personally.

19 THE COURT: Do the court security officers -- I can  
20 amend it so that it's generally.

21 Thank you, Mr. Porter.

22 The next card, "Mr. Stephens had not told anyone in  
23 the courtroom he had to urgently pee as he exited the room and  
24 hadn't peed his pants with the need to exit the courtroom,  
25 correct," question mark?

1                   What is your position, Ms. Orsinger and Mr. Brown?

2                   MS. ORSINGER: I think this may have been covered by  
3 the earlier question. It's more of a statement.

4                   MR. BROWN: Right. I do too. He said he didn't  
5 hear anything and he didn't see any evidence.

6                   THE COURT: We'll ask the question that addresses  
7 that previously.

8                   The next card is, "Procedurally in your day-to-day  
9 duties are you allowed to request reviews be made of  
10 surveillance coverage?"

11                  MS. ORSINGER: No objection from the government.

12                  MR. BROWN: No.

13                  THE COURT: Second question on the card is, "Do you  
14 notify surveillance staff of incidents?"

15                  MR. PORTER: It's a fair question.

16                  MR. BROWN: Well, they file reports so they did  
17 notify them. I don't know who they notify as far as  
18 surveillance but he filed a report. It goes into the great  
19 bureaucracy.

20                  THE COURT: Do you want me to modify this question?  
21 Instead of, "do you," "do CSOs notify surveillance staff of  
22 incidents?" or what is your preference?

23                  MS. ORSINGER: The only concern I have with it is  
24 there's truly not a surveillance staff. There are CSOs and  
25 there are U.S. Marshals or deputy marshals.

1 MR. BROWN: Well, could we modify that, "Do you  
2 notify whoever's in the control room of the incident?" I think  
3 that's really -- well, I don't know what they're asking.

4 MR. PORTER: Another way to interpret is there's  
5 some kind of standing operating procedure for what you do when  
6 there is an incident. I don't know if that's what they're  
7 driving at.

8 MR. BROWN: Since we can't tell, we probably  
9 shouldn't ask that question.

10 MS. ORSINGER: I agree.

11 THE COURT: We won't ask that question. We'll only  
12 ask the first question.

13 The final card has three sections. The first is,  
14 "Conflicting story, slash, of location of people, slash,  
15 courtroom doors as they were leaving, slash."

16 MR. BROWN: That's what they're going to have to  
17 resolve in deliberation.

18 THE COURT: Three said, "He never touched Mr.  
19 Stephens but yet used body to push Mr. Stephens through door,  
20 slash, times Mr. Stephens was seen outside and time Mr. Risley  
21 conflict where Mr. Stephens was at in courtroom, slash,  
22 sidewalk." I can't interpret a question from that. What is  
23 your position?

24 MS. ORSINGER: The government objects to all of  
25 those statements.

1 THE COURT: Mr. Brown, you would object to forming  
2 any question?

3 MR. BROWN: Yes.

4 THE COURT: Second portion, "Do we have video of any  
5 said events?" And there's a little bit of some language, which  
6 I don't know if that belongs to the first portion or the second  
7 portion.

8 MS. ORSINGER: I can't tell which one it belongs to.

9 THE COURT: Regardless, what about the second  
10 question about the additional writing?

11 MR. PORTER: "Do we have video of said events?" Is  
12 that what your --

13 THE COURT: Yes.

14 MR. BROWN: I take it those others apply to the set  
15 in the hallway, courtroom, courtyard, but I don't know. And  
16 since I don't know, I'm not going to --

17 MS. ORSINGER: I believe he's already stated that --  
18 I believe he's already stated that's not part of his duties.  
19 That would be his supervisor. He does not have personal  
20 knowledge, so I don't believe that question can be asked.

21 THE COURT: What is your position, Mr. Brown?

22 MR. BROWN: I don't think we should ask that  
23 question.

24 THE COURT: It won't be asked.

25 Then, finally, "Have three cameras looks that entire

1 courtroom covered?" I'm sorry. "Have the three cameras, looks  
2 like entire courtroom covered."

3 MR. BROWN: That's a statement.

4 THE COURT: Oh, the cameras in the back.

5 MR. BROWN: Well, I don't know which cameras.

6 THE COURT: What is your position, Ms. Orsinger?

7 MS. ORSINGER: It's not a question. It's a  
8 statement. So as written, I don't believe it could be asked.

9 THE COURT: Is there any modification to this  
10 question that would not be objected to?

11 MR. PORTER: I'm not sure there can be, Judge. This  
12 witness may not have -- that right there is not the camera  
13 that's being used in the control center. The two in the back  
14 are not the cameras being used in the control center. The only  
15 one in the control center --

16 THE COURT: Is there a witness that will address  
17 this?

18 MR. PORTER: We have a witness from the marshal  
19 service. He's not currently on our witness list so we ask for  
20 the opportunity.

21 THE COURT: Mr. Brown.

22 MR. BROWN: Who's the witness you want to endorse?

23 MR. PORTER: It's going to probably be Brett Stevens  
24 or Amy Matous or somebody who's with the marshal service who  
25 has authority over those cameras.

1 MR. BROWN: That's fine.

2 MS. ORSINGER: The other person would be Randy  
3 Sinele.

4 MR. PORTER: Yes, Randy Sinele is another option.

5 THE COURT: What is your position, Mr. Brown?

6 MR. BROWN: Well, if they feel like they need to, I  
7 don't care, but I think we're getting far afield, and bottom  
8 line is they don't have any video surveillance because they've  
9 forgotten the password. When they came back out to fix that,  
10 the data was destroyed.

11 MR. PORTER: Are you familiar with what we're  
12 talking about, Judge?

13 THE COURT: Not at all but that's okay.

14 MR. PORTER: If you want to know the short story,  
15 Readers Digest version, I can give it to you. That's not far  
16 off.

17 MR. BROWN: There's no video.

18 MR. PORTER: Not only is there no video but not all  
19 the cameras have video attached to them. Some of them are only  
20 monitoring and have no ability to record.

21 MS. ORSINGER: The one in the courtroom is actually  
22 only monitoring. His statement that he believes it records is  
23 inaccurate. It doesn't. But he doesn't have that personal  
24 knowledge.

25 MR. PORTER: The court en banc decided a long time



1 ago they don't want activities in the courtroom recorded. They  
2 don't want the marshals, for example, to be able to sit in that  
3 control center and look on defense counsel's table to see  
4 what's going on at the defense counsel. The only thing that  
5 can happen in the courtroom is monitoring, and not all the  
6 other cameras that are monitoring are set up to record. So  
7 we'll clarify all of that through the marshal service witness,  
8 but that also raises your issue perhaps about the disclosure of  
9 courthouse security measures, and we don't want that. I'm  
10 sensitive to that. That's why I wanted to bring it up to you.

11 MR. BROWN: Right. And I'm sensitive to that.  
12 Maybe not as sensitive as Gene, but I don't know that I want to  
13 get into -- bottom line is they don't have it. They can't  
14 produce it and --

15 MR. PORTER: And when the effort was made to go back  
16 and try to recover what was available on a recorded video, it  
17 had never been accessed before. The password to get to it had  
18 been lost, and the only way they could then get back into it  
19 was to create a new password and that process destroyed the  
20 existing video.

21 THE COURT: You will have a witness that explains  
22 that generic --

23 MR. PORTER: Generically in that context without --  
24 we can do that without disclosing that not all of the cameras  
25 are recording.

1 THE COURT: Okay. If you could -- my suggestion  
2 would be when you question the witness, that you don't identify  
3 various cameras as ones that can record and ones that can't and  
4 just generically an effort was made of all potential vantage  
5 points.

6 MR. BROWN: I don't care. I don't care if they  
7 explain that.

8 MR. PORTER: The bottom line is we don't have any  
9 but not for lack of trying.

10 THE COURT: Explain in generic terms.

11 MR. BROWN: Right.

12 THE COURT: That will be fine. I will not ask --

13 MS. ORSINGER: Judge, are you granting us leave to  
14 call one of those U.S. Marshal witnesses?

15 THE COURT: For generic explanation?

16 MS. ORSINGER: Yes.

17 THE COURT: Mr. Brown, do you have any objection?

18 MR. BROWN: No.

19 THE COURT: You are allowed to do that and in your  
20 case in chief.

21 MS. ORSINGER: Yes.

22 THE COURT: Very well. We will go that direction.  
23 So at this point we only have the four circled questions.

24 We'll take a recess now until 1:30.

25 (Recess was taken at 12:17 p.m. until 1:30 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AFTERNOON SESSION

THE COURT: Please be seated.

We've now finished our lunch break and Juror No. 11 -- I believe it was No. 11, Ms. Wheeler; is that correct?

THE COURTROOM DEPUTY: Yes.

THE COURT: Mentioned to Ms. Wheeler that she left a second question card on her chair.

And, Ms. Wheeler, will you go check her chair and see if there is a card.

Ms. Wheeler, will you hand the card to me. The card reads, "At any time while you were walking Mrs. Stephens out of the courthouse" -- I'm sorry -- "Mr. Stephens out of the courthouse and he was speaking to you, did you attempt to say anything to try to calm him down?" I'll read that again. "At any time while you were walking Mr. Stephens out of the courthouse and he was speaking to you, did you attempt to say anything to try to calm him down?"

Ms. Orsinger, what is your --

MS. ORSINGER: The witness is on the stand. Are you okay with him being in here?

THE COURT: While we discuss, why don't you stand outside the courtroom.

MS. ORSINGER: Sorry about that.

THE COURT: What is your position?

1 MS. ORSINGER: The government has no objection to  
2 that question.

3 THE COURT: Mr. Brown, what's your position?

4 MR. BROWN: I think it's been answered. If I recall  
5 the testimony correctly, he indicated that after Mr. Stephens  
6 came out of the bathroom, Mrs. Jordan, Mr. Stephens' mother,  
7 was having heart palpitations and he tried to quiet him down  
8 for her sake. So I'd say it's asked and answered. The jury  
9 collectively will remember that even if that particular juror  
10 doesn't.

11 THE COURT: The question specifically references out  
12 of courthouse. Was that asked and answered, in your opinion,  
13 Mr. Brown?

14 MR. BROWN: Yes.

15 THE COURT: What was the answer?

16 MR. BROWN: I tried to. Because of his mom, he kept  
17 cussing me and everything and we took him out and the whole  
18 time he was cussing, making ugly statements to me.

19 THE COURT: So you would object to this question  
20 being asked?

21 MR. BROWN: Yes, ma'am. And I think collectively  
22 the jurors will remember that.

23 MS. ORSINGER: Your Honor, from the government's  
24 perspective, the question that was asked was with regard to  
25 when the defendant came out of the bathroom. That's when Mr.

1 Tyree testified that he attempted to calm Mr. Stephens down in  
2 this hallway here on the fourth floor. The question is related  
3 to from the fourth floor down out of the courthouse. So that's  
4 different than what the witness has testified to.

5 MR. BROWN: That's not my recollection, and I would  
6 object.

7 THE COURT: With the defense objection, I will not  
8 ask that question, but that can come up at another time.

9 Is there anything besides asked and answered that  
10 you object to?

11 MR. BROWN: No, not really. If they call Black and  
12 want to cover that in their direct of Black, that's okay.

13 THE COURT: Okay. And then before we call Mr. Tyree  
14 back in, Mr. Brown, do you want to make a record regarding  
15 calling Mr. Redmon?

16 MR. BROWN: Yes, ma'am. After consultation with  
17 Nick Brown, who was appointed to represent him in Mr. Brown's  
18 presence and in my presence he said if he were called to  
19 testify, he would state his name and assert his Fifth Amendment  
20 rights and that's all he would do. I believe that makes him  
21 unavailable.

22 If the Court wants to make a record or indicate that  
23 that's the case, that's up to the Court; but I'm satisfied if I  
24 called him, he would assert his Fifth Amendment rights. As far  
25 as I'm concerned, that makes him unavailable.

1           THE COURT: I'm not requesting a record. Is the  
2 government requesting a further record?

3           MR. PORTER: No, Your Honor.

4           THE COURT: Okay. Let's call in Mr. Tyree and the  
5 jury.

6           And we do have our latest version of the verdict  
7 director, just to keep this flowing to you what our thoughts  
8 are.

9           MR. BROWN: As far as the Court's concerned, the  
10 marshals can take Mr. Redmon wherever they need to take him; is  
11 that correct?

12          THE COURT: Yes. He can be discharged from his  
13 subpoena. Is that okay, Mr. Porter?

14          MR. PORTER: Absolutely, Your Honor. He's here  
15 pursuant to that ASR and we've communicated to the marshals  
16 they can transport him and the ASR is no longer in effect.

17          THE COURT: Very well.

18          And can Mr. Tyree come back in and take the stand.

19 G. PAUL TYREE resumed the stand and testified:

20           (The following proceedings were had in the presence  
21 of the jury:)

22          THE COURT: Please be seated.

23          Ladies and gentlemen, there are some questions that  
24 you submitted that we are able to ask, and so I'd ask Ms.  
25 Orsinger to ask those questions.

1                   And I would remind Mr. Tyree that you are still  
2 under oath.

3 QUESTIONS FROM THE JURY BY MS. ORSINGER:

4       Q           At any time after Mr. Stephens left the restroom, did  
5 he complain about having urinated on himself?

6       A           No.

7       Q           If so, did Mr. Stephens state how it might have been  
8 avoided if he had been able to go to the restroom sooner?

9       A           No, never brought up.

10      Q           Do CSOs offer assistance to people getting to their  
11 cars when a situation could possibly be volatile?

12      A           We have been asked by other judges to escort members of  
13 the jury to their cars.

14      Q           Procedurally in your day-to-day duties are you allowed  
15 to request review be made of surveillance coverage?

16      A           No.

17                   MS. ORSINGER: The government has no follow-up  
18 questions.

19                   THE COURT: That's all of the questions?

20                   MS. ORSINGER: Yes.

21                   THE COURT: Mr. Brown, do you have any follow-up?

22                   MR. BROWN: I do have one.

23 FURTHER RECROSS-EXAMINATION BY MR. BROWN:

24      Q           You were the CSO in this courtroom at 1:30 on the 29th  
25 of September; is that correct?

1       A           I was one of them, yes, sir.

2       Q           Did Mr. Risley ever communicate to you that there might  
3 be --

4                   MS. ORSINGER:  Objection.  May we approach?

5                   (Counsel approached the bench and the following  
6 proceedings were had:)

7                   MS. ORSINGER:  This is starting to go outside the  
8 scope of the juror questions, so before we go there --

9                   THE COURT:  What is this regarding?  The questions?

10                  MR. BROWN:  Well, I'm going to ask him if he had --  
11 if it had been brought to the attention of Judge Bough and  
12 Judge Bough had asked that he take him to the car, they would  
13 have done that.

14                  MS. ORSINGER:  If Mr. Risley had done --

15                  MR. BROWN:  No.  If Judge Bough had asked the CSOs  
16 to escort any of these people to the car, the CSOs would have  
17 done that.  If you want me to --

18                  MS. ORSINGER:  The question started back there was  
19 related to Mr. Risley which was why I initially objected.  It  
20 wasn't --

21                  MR. BROWN:  I will ask him if Judge Bough had asked  
22 the CSOs to escort anyone, would they do that?

23                  MS. ORSINGER:  I have no problem with that question  
24 as stated.

25                  (The proceedings returned to open court.)



1 Q (By Mr. Brown) Mr. Tyree, if Judge Bough had requested  
2 you or any of the other CSOs to escort any visitors or whatever  
3 to their car, would you have done that?

4 A Yes.

5 THE COURT: Any other questions, Ms. Orsinger?

6 MS. ORSINGER: No thank you, Your Honor.

7 THE COURT: You may stand down. Thank you.

8 (Witness excused.)

9 THE COURT: You may call your next witness.

10 MR. PORTER: Your Honor, if the Court please, we  
11 would call Randy Sinele.

12 RANDALL SINELE, being sworn by the courtroom deputy, testified:

13 DIRECT EXAMINATION BY MR. PORTER:

14 Q Good afternoon, sir.

15 A Hi.

16 Q If you would try to speak into that microphone as much  
17 as you can, that would be much appreciated by all of us here so  
18 we don't miss any of your testimony.

19 A Okay.

20 Q If you would, sir, please state your name and for the  
21 benefit of our court reporter, spell both your first and your  
22 last names.

23 A Randall, R-a-n-d-a-l-l, Sinele. That's S-i-n-e-l-e.

24 Q Sir, you are employed by the United States Marshal  
25 Service; is that correct?

1 A Yes.

2 Q And your place of duty is here in this Jefferson City  
3 courthouse?

4 A Yes, sir.

5 Q Give us a brief description of your duties with the  
6 marshal service here in the courthouse.

7 A We are responsible for producing prisoners, court  
8 security, fugitive investigations.

9 Q Okay. Now, I want to direct your attention to  
10 September the 29th of 2016. Do you recall that date?

11 A Yes.

12 Q And this jury has heard previous testimony about the  
13 events that occurred that afternoon, but I want to focus your  
14 attention on events that occurred after September the 29th.

15 A Okay.

16 Q In particular, you as a member of the U.S. Marshal  
17 Service here in this courthouse were the recipient of a law  
18 enforcement request to view or recover the video from any  
19 cameras that had been used for either courthouse, meaning  
20 exterior, or courtroom, referring to interior cameras,  
21 associated with the events that occurred on September the 29th  
22 of 2016, correct?

23 A Yes.

24 Q In response to that request, the computer that stored  
25 that archived video locked up?

1 A Yes.

2 Q And you learned at that point that the only way to  
3 restart that computer was to re-image the computer?

4 A That's what I was told.

5 Q And once that computer was re-imaged, the stored or  
6 archived video would be lost?

7 A Yes.

8 Q And because of that, no video of the events that  
9 occurred on September the 29th has been recovered?

10 A Correct.

11 Q Either from the interior of the courthouse or the  
12 exterior of the courthouse?

13 A Yes.

14 Q Both of them -- none of it can be recovered?

15 A Right.

16 Q Due to that mechanical failure?

17 A Yes.

18 MR. PORTER: Nothing further, Your Honor.

19 CROSS-EXAMINATION BY MR. BROWN:

20 Q Sir, we don't have any video from the outside or the  
21 inside of this courthouse for October 29th, right?

22 A Correct.

23 Q And that's because somebody lost the password and they  
24 couldn't access it so when it was reset, that data was  
25 destroyed; is that correct?

1       A           I'm not sure we ever knew the password for that system.

2       Q           But it was a password problem, not an equipment  
3 problem?

4       A           I guess so.

5       Q           And you don't have any backup for that, for the video  
6 that's recorded here in the courthouse or anything?

7       A           No.

8                   MR. BROWN: I don't have anything further.

9 REDIRECT EXAMINATION BY MR. PORTER:

10      Q           Mr. Sinele, to make sure there's not confusion, and I  
11 may have misheard, and if I did, I apologize, but I think  
12 perhaps Mr. Brown said October instead of September when he was  
13 asking you his questions. The events we're talking about are  
14 on September the 29th of 2016?

15      A           Yes.

16                   MR. PORTER: That's all, Your Honor.

17 RECROSS-EXAMINATION BY MR. BROWN:

18      Q           And if I misstated it, I apologize. If the data from  
19 September 29th is not available, then we don't have any  
20 surveillance for those same reasons; is that correct?

21      A           Correct.

22                   THE COURT: If you can remain seated and we'll see  
23 if the jurors have any questions.

24                   MR. PORTER: May we approach, Your Honor?

25                   THE COURT: Yes.

1 (Counsel approached the bench and the following  
2 proceedings were had:)

3 THE COURT: This makes a trial pretty transparent.  
4 Mr. Brown, do you have any objections to any of  
5 those?

6 MR. BROWN: I don't.

7 MR. PORTER: That question, Your Honor, is long-term  
8 security of the facility and thus -- I get it.

9 MR. BROWN: That one might border on security. It  
10 said "before" and I think that's something that's relevant.

11 THE COURT: If it ever happened before that they've  
12 captured it.

13 MR. BROWN: Yes.

14 MR. PORTER: This is maybe helpful to make it clear  
15 that they're not Keystone Cops. They are going to fix the  
16 problem. And I think maybe that's okay.

17 THE COURT: I'll instruct him not to disclose any  
18 security.

19 So for the record I will be circling four questions  
20 that can be asked, and I'll give a cautionary warning to this  
21 witness to not disclose any specifics about security for  
22 security reasons.

23 (The proceedings returned to open court.)

24 THE COURT: Mr. Sinele, we have approximately four  
25 questions. They're fairly general questions. And because this

1 is regarding courthouse security, I would ask that you not  
2 disclose any details of the security system beyond general  
3 answers.

4 THE WITNESS: Okay.

5 MR. PORTER: Your Honor, if we might approach very  
6 quickly, I want to bring up one more matter. You said four. I  
7 think we have five.

8 THE COURT: Five. Okay.

9 MR. PORTER: I just didn't want to ask more than you  
10 said.

11 May I inquire, Your Honor?

12 THE COURT: Yes.

13 QUESTIONS FROM THE JURY BY MR. PORTER:

14 Q Mr. Sinele, the first question from the jury is, has  
15 the problem with lost video ever happened before?

16 A No, not in this building and I wouldn't be aware of any  
17 other.

18 Q Is there a backup protocol for video?

19 A Not that I'm aware of.

20 Q And how long is video typically retained?

21 A That I don't know.

22 Q The next question is, there are absolutely no data  
23 retrieval systems in place for video?

24 A Not that I'm aware of. I'm not --

25 Q The next question is, how is retrieval not possible?

1 Who's in charge of the upkeep and password to the computers?  
2 Let me rephrase that as one question. I think I just asked you  
3 two. How is retrieval not possible?  
4 A I don't know. I'm not --  
5 Q And who's in charge of the upkeep and the passwords to  
6 the computers?  
7 A I don't know that answer either.  
8 Q Finally, are there plans to correct this for the  
9 future?  
10 A Once we can get the machine running, the situation --  
11 I'm sure they'll put procedures in place.  
12 MR. PORTER: Those are all the questions, Your  
13 Honor.  
14 THE COURT: Any follow-up?  
15 MR. BROWN: No, Your Honor.  
16 FURTHER REDIRECT EXAMINATION BY MR. PORTER:  
17 Q The computer that locked up --  
18 A Yes, sir.  
19 Q -- is maintained by ADT?  
20 A If there was a problem, they would be the ones to come  
21 in and fix it.  
22 MR. PORTER: Thank you.  
23 THE COURT: You may stand down.  
24 (Witness excused.)  
25 THE COURT: Please call your next witness.

1 MS. ORSINGER: United States calls James Black.  
2 JAMES BLACK, being sworn by the courtroom deputy, testified:  
3 DIRECT EXAMINATION BY MS. ORSINGER:  
4 Q Mr. Black, can you please state your full name for the  
5 record.  
6 A James Black.  
7 Q Are both of those names common spelling?  
8 A Yes.  
9 Q Where are you currently employed?  
10 A AD Lafayette U.S. Marshals court -- federal courthouse.  
11 Q Here in Jefferson City?  
12 A Yes.  
13 Q How long have you worked here in Jefferson City?  
14 A Ten and a half years.  
15 Q What is your title?  
16 A Court security officer.  
17 Q What do your duties generally entail?  
18 A To monitor the coming and going of people to the  
19 courthouse, checking for any kind of threats.  
20 Q Do you have prior law enforcement experience?  
21 A Yes.  
22 Q What does that entail?  
23 A Started in '99 with the Morgan County sheriff's  
24 department. Was there about a year, then went to the Stover  
25 Police Department for four years, and then back to Morgan



1 County for two years and then started here in '06.

2 Q CSO duties, are they generally divided by hour posts?

3 A Yes.

4 Q Were you working here as a CSO on September 29th, 2016?

5 A Yes.

6 Q More specifically, from the times 1 to 2 p.m. were you

7 assigned to this courtroom, courtroom 4B?

8 A Yes.

9 Q Is that the same courtroom we're located in here today?

10 A Yes, it is.

11 Q Do you recall where you were located in the courtroom?

12 A Yes, I do.

13 Q Where was that?

14 A I was sitting on this side of the courtroom monitoring

15 the people in the gallery and the rest of the courtroom.

16 Q And you motioned to your left?

17 A To my left, yes.

18 Q Are you referring to the jury box area?

19 A Yes.

20 Q And do you recall which row you were in?

21 A I believe I was in the back row.

22 Q Do you recall what type of hearing you were present

23 for?

24 A Criminal hearing.

25 Q Was it a sentencing hearing?

1       A       Sentencing, yes.

2       Q       Do you recall approximately what time that began?

3       A       I believe it started around one, between one and 1:30,

4       I think.

5       Q       Are you familiar with the defendant, Mr. Stephens, the

6       defendant in this particular case?

7       A       Just what happened that day.

8       Q       Okay. Prior to September 29th you were not familiar

9       with him?

10      A       No. Never met him, no.

11      Q       Did you see him on September 29th, 2016?

12      A       Yes.

13      Q       That being Mr. Stephens?

14      A       Yes.

15      Q       And where did you first observe Mr. Stephens?

16      A       He was sitting in the gallery. It would be the left

17      side of the courtroom, my left.

18      Q       Do you recall what row he was located in?

19      A       I believe he was sitting in the front row.

20      Q       And the defendant, Vershawn Edwards, and his attorney,

21      do you recall where they were located?

22      A       They were sitting at the defense table, which would

23      have been to my right where Mr. Stephens is sitting now.

24      Q       Okay. And you've just identified Mr. Stephens. Could

25      you please describe also what he's wearing?

1       A           Right now?

2       Q           Yes, for the record.

3       A           He's wearing a polo shirt, black and brown.

4                   MS. ORSINGER: Please let the record reflect the

5 witness has identified the defendant.

6                   THE COURT: The record will so reflect.

7       Q           (By Ms. Orsinger) Okay. So this sentencing hearing of

8 Vershawn Edwards once it concludes, what do you recall

9 happening?

10      A           When it was over the -- Mr. Edwards' attorney, Mr.

11 Risler [sic], started to leave the courtroom with two females.

12 I don't know who they were. And Mr. Stephens followed them

13 out. When I noticed there was commotion between the door --

14 this door and the outer door at that time, I proceeded towards

15 the door and Paul Tyree, another CSO, followed me out.

16      Q           You said when you noticed. Is there a possibility that

17 events were happening before your attention was drawn to it?

18      A           There could have been, yes.

19      Q           So if I understand you correctly, you're referring to

20 some commotion between the sets of door. So this first door in

21 the courtroom and the second door that exits into the hallway?

22      A           Yes. What got my attention was loud voices and other

23 commotion going on.

24      Q           Okay. So did you proceed to that area?

25      A           Yes.

1 Q And continue describing what you observed.

2 A By the time I got over there, Mr. Stephens and Mr.  
3 Risler were already out in the hallway. I could see Mr.  
4 Stephens saying -- telling Mr. Risler he was going to whip his  
5 ass if he touched him again. That's when we proceeded to  
6 separate the two. We asked Mr. Stephens to step away, to step  
7 down the hallway with us. He kept -- he kept mouthing stuff  
8 all the way down the hallway.

9 Q And I want to ask a follow-up question to make sure I  
10 understood you correctly. The statement you heard Mr. Stephens  
11 say was that, I'm going to whoop or whip?

12 A Whip.

13 Q W-h-i-p?

14 A Yes.

15 Q And you mentioned separating the two. Did anyone stay  
16 with Mr. Risley, the defense attorney?

17 A No.

18 Q So the CSOs went with Mr. Stephens?

19 A Yes. Because at that time myself and Paul Tyree was  
20 the only two CSOs in the hallway.

21 Q And continue what was being said and where were you  
22 going? What was happening?

23 A Mr. Stephens was upset with, I assume, with the  
24 attorney, Mr. Risler.

25 Q What was he saying?

1       A           He kept saying he was going to whip his ass if he  
2 touched him. He said that two or three times.

3       Q           Did you personally ever observe Mr. Risley ever touch  
4 Mr. Stephens?

5       A           No, I did not.

6       Q           So where did you go from there?

7       A           We went ahead and escorted him down the hallway a  
8 little bit further. We were close to the bathrooms. Mr.  
9 Stephens' mother was there with us. She was complaining of  
10 chest pains and stuff, and we was trying to -- Paul Tyree was  
11 trying to get him calmed down.

12      Q           Him being Mr. Stephens?

13      A           Mr. Stephens, yes. And at one point Mr. Stephens asked  
14 if he could go to the bathroom. We told him, yes, that would  
15 be fine. Come back out when he's done.

16      Q           And when did Mr. Stephens first request to use the  
17 bathroom?

18      A           Whenever we were down by the bathrooms.

19      Q           So prior to that within the doorway and immediately  
20 outside the courtroom did Mr. Stephens ever ask to use the  
21 bathroom?

22      A           No. The only time he asked is when we escorted him  
23 down towards the bathroom in the hallway.

24      Q           And once there, you and CSO Tyree allowed Mr. Stephens  
25 to use the bathroom?

1       A       Yes.

2       Q       And did you ever observe that Mr. Stephens had urinated  
3 himself?

4       A       No.

5       Q       At some point did Mr. Stephens exit the bathroom?

6       A       Yes.

7       Q       What happened at that point?

8       A       At that time another CSO, Paul Milne, was down with us,  
9 and at that point we decided that Mr. Stephens needed to leave  
10 the building.

11      Q       And where did CSO Milne come from?

12      A       He came from out of the courtroom. He came out of the  
13 same doors we did.

14      Q       But after you and -- I'm sorry, CSO Tyree?

15      A       Yes, after us.

16      Q       And so did CSO Milne stay with you and CSO Tyree?

17      A       It was myself and CSO Tyree that escorted Mr. Stephens  
18 down the elevator out to the outer doors.

19      Q       Was Mr. Stephens saying anything from the bathroom to  
20 the elevator?

21      A       At one point he said this is bullshit that he had to  
22 leave, but we advised him that he was making too much of a  
23 commotion and that he needed to leave.

24      Q       What about in the elevator? What happened then?

25      A       In the elevator he mentioned one other time that he was

1 going to whip Mr. Risley's ass if he would have touched him.

2 Q What happened once you got down to the first floor?

3 A We exited the elevator and escorted him across the  
4 elevator -- or excuse me -- across the lobby and out the glass  
5 doors.

6 Q And was Mr. Stephens saying anything during that time?

7 A Whenever he got out to the glass doors, he looked back  
8 at myself and CSO Tyree and said he hoped we would die and our  
9 family would die and then he walked out the doors.

10 Q What did you do once Mr. Stephens was removed from the  
11 courthouse?

12 A Went back up to this courtroom.

13 Q Until what time? Approximately is fine.

14 A About four o'clock, I believe.

15 Q Did you ever observe the defendant return to the  
16 courthouse on September 29th, 2016?

17 A No, I did not.

18 Q Thank you.

19 MS. ORSINGER: The government passes this witness.

20 CROSS-EXAMINATION BY MR. BROWN:

21 Q Mr. Black, you've indicated that at about 1:30 on  
22 September 29th you were in this courtroom as CSO or security  
23 officer, correct?

24 A Correct.

25 Q And you believe you were sitting in the back row of the

1 jury box?

2 A Yes, I believe I was sitting there.

3 Q And how many other CSOs were in the courtroom?

4 A Paul Tyree was one of them and Paul Milne was the other  
5 one.

6 Q Where were they located?

7 A I believe Tyree was in the jury box with me, and Paul  
8 Milne would have been standing on the other side of the  
9 courtroom.

10 Q All right. And after the sentencing took place, you  
11 observed Mr. Stephens leaving the courtroom?

12 A Yes.

13 Q And he got through this first door?

14 A Yes.

15 Q And at that point while he was out in that anteroom  
16 area, you heard loud voices or something?

17 A Yes, loud -- yes.

18 Q That's when you went to see what's going on?

19 A Yes.

20 Q And where were the other CSOs? Did you all converge  
21 or --

22 A Me and CSO Tyree went about the same time. We both  
23 noticed the commotion and we headed that way at the same time.

24 Q Okay. And when you got into the anteroom, they had  
25 already -- this had spilled out in the hall?



1       A       Yes.

2       Q       And you went out into the hall and they were having  
3 words and Mr. Stephens was loud?

4       A       Yes.

5       Q       And you -- and your recollection is he was telling Mr.  
6 Risley, "If you touch me again, I'm going to whip your ass"?

7       A       Yes, sir.

8       Q       That's when you and Officer Tyree approached him and  
9 kind of separated them?

10      A       Yes.

11      Q       And did you tell him he was going to leave the  
12 courthouse or did Officer Tyree?

13      A       Officer Tyree did.

14      Q       And he's cussing you; is that fair?

15      A       That's fair, yes.

16      Q       And you kind of head him down the hallway and he says,  
17 "I have to go to the bathroom"?

18      A       Yes.

19      Q       You let him go in?

20      A       Yes.

21      Q       Did you check if anybody was in the bathroom?

22      A       No, we did not.

23      Q       Where was Mr. Risley? Did you see him leave?

24      A       He was still up by the courtroom doors.

25      Q       Back here?

1 A Back here in the hallway, yes.

2 Q He hadn't proceeded to the elevators?

3 A No.

4 Q How long do you think Mr. Stephens was in the restroom?

5 A No more than three minutes or so.

6 Q All right. He came out voluntarily? You didn't have

7 to go in and get him or anything?

8 A That's correct.

9 Q He's still cussing you?

10 A Yes.

11 Q You take him down the elevator, take him across the

12 lobby, and put him out the door?

13 A Yes.

14 Q And he's pretty much cussing you and saying ugly things

15 the whole time?

16 A Pretty much, yes.

17 MR. BROWN: That's all I have of this witness, Your

18 Honor.

19 MS. ORSINGER: Just briefly.

20 REDIRECT EXAMINATION BY MS. ORSINGER:

21 Q You were asked by defense counsel if they were having

22 words. You mentioned earlier you heard the defendant say, "I'm

23 going to whip your ass." Did you hear Mr. Risley say anything?

24 A Not that I can recall, no.

25 Q Thank you.

1 MS. ORSINGER: No other questions.

2 THE COURT: Any recross?

3 MR. BROWN: No, Your Honor.

4 THE COURT: If the jury has any questions, they can  
5 write on their cards.

6 (Counsel approached the bench and the following  
7 proceedings were had:)

8 MS. ORSINGER: No objections.

9 THE COURT: Any objections?

10 MR. BROWN: No.

11 MS. ORSINGER: This should be -- I think the second  
12 part is asking, "Where was the third officer?" Do you agree  
13 with that?

14 MR. BROWN: I guess, yeah, sure.

15 MS. ORSINGER: We can ask follow-up questions if we  
16 need to clear it up.

17 Three needs to be third; is that right?

18 MR. BROWN: I think he testified to that.

19 MS. ORSINGER: He did.

20 MR. BROWN: I think I asked him questions.

21 THE COURT: Do you object to that?

22 MR. BROWN: No.

23 (The proceedings returned to open court.)

24 QUESTIONS FROM THE JURY BY MS. ORSINGER:

25 Q Mr. Black, I'm going to read you some questions from

1 the jury. You said where you and Tyree were when you heard  
2 them. Where was the third officer for court?

3 A The third officer would have been standing where the  
4 female CSO is right now.

5 Q Just for the record, you're pointing to your right?

6 A The far right, yes.

7 Q The wall closest to the exit?

8 A Yes.

9 Q Do you feel you did everything you could to diffuse the  
10 problem concerning Mr. Stephens' anger?

11 A Yes.

12 Q At any time did you observe Risley attempt to obstruct  
13 defendant's exit?

14 A No, I never did.

15 Q Did you observe Risley go to elevator?

16 A No, I did not.

17 Q Could -- it reads could he -- could you see or smell  
18 any signs of urination?

19 A No, I could not.

20 Q Was -- it says was he. Were you in front of Tyree in  
21 the vestibule?

22 A I can't remember.

23 MS. ORSINGER: I have no follow-up questions to  
24 those, Your Honor.

25 MR. BROWN: I have no questions.

1 THE COURT: Very well you may stand down.  
2 (Witness excused.)  
3 THE COURT: Ms. Orsinger, will you call your next  
4 witness?  
5 MS. ORSINGER: Yes, Your Honor.  
6 MR. PORTER: Your Honor, if the Court please, Wendy  
7 Houston.  
8 WENDY HOUSTON, being sworn by the courtroom deputy, testified:  
9 MR. PORTER: Before you take the witness, would you  
10 like to leave your coat back there?  
11 THE WITNESS: Yes.  
12 DIRECT EXAMINATION BY MR. PORTER:  
13 Q And if you want to leave your gloves on or off?  
14 A I do. It's cold.  
15 Q Ma'am, if you would, please, state your name, your full  
16 name and for the benefit of the court reporter, spell both your  
17 first and your last names.  
18 A My name is Wendy, W-e-n-d-y, Houston, H-o-u-s-t-o-n.  
19 Q Are you employed, ma'am?  
20 A Yes.  
21 Q Where are you employed?  
22 A Nestle Waters North America.  
23 Q Where do you live?  
24 A Dallas, Texas.  
25 Q Are you a former resident in the Columbia, Missouri,

1 area?

2 A Yes, sir.

3 Q And do you have a past and current relationship to

4 Malcolm Redmon?

5 A Yes.

6 Q You love him?

7 A Yes.

8 Q You believe he loves you?

9 A He does.

10 Q Do you have any children by him?

11 A No.

12 Q Does he have children by other women?

13 A Yes.

14 Q Ma'am, I want to direct your attention to September the

15 29th of this year, 2016. Do you recall that date?

16 A Yes.

17 Q There were a number of sentencing hearings being held

18 that date here in this courthouse and in this courtroom; is

19 that right?

20 A Yes.

21 Q You came to attend those sentencing hearings that day?

22 A Yes.

23 Q Who did you come with?

24 A With Bruce.

25 Q And you're referring to Bruce Wayne Stephens?

1       A       Yes.

2       Q       The defendant in this case?

3       A       Uh-huh.

4       Q       Is he present in the courtroom today?

5       A       Yeah. But I can't see him, though. There he is.

6       That's him.

7       Q       And to help make sure the jury and everyone else is

8       able to hear you, if you could try to speak into that

9       microphone as much as possible. It's got a flexible thing

10      there that can bend down.

11              Can you identify Mr. Stephens by describing where

12      he's seated in the courtroom and what he's wearing?

13      A       Yeah. He's sitting -- I don't know -- right directly

14      in front of me now. And he's wearing I think a brownish jacket

15      and an orange shirt underneath of it.

16              MR. PORTER: May the record reflect the

17      identification of the defendant, Your Honor?

18              THE COURT: The record will so reflect.

19      Q       (By Mr. Porter) Now, there were a number of sentencing

20      hearings scheduled that day for a number of the codefendants in

21      a multiple defendant narcotics prosecution, correct?

22      A       Correct.

23      Q       One of those was the sentencing hearing for Malcolm

24      Redmon, yes?

25      A       Yes.

1 Q One of them was for the sentencing hearing of Vershawn  
2 Edwards, correct?

3 A Yes.

4 Q You attended both of those sentencing hearings that day  
5 on September the 29th?

6 A Among others.

7 Q Among others. So those were just two of the sentencing  
8 hearings that day, right?

9 A Yes.

10 Q Referring specifically to Vershawn Edwards, prior to  
11 coming to court that day, you knew that he was what's referred  
12 to as a cooperator against Malcolm Redmon, yes?

13 A I knew that some of them were. I didn't know who  
14 specifically but, yes, I figured that out.

15 Q Well, when we talked last night, which was the first  
16 time you and I ever spoke, correct?

17 A Uh-huh.

18 Q Yes?

19 A Yes.

20 Q Last night was the first time we ever spoke?

21 A Yes. Yes.

22 Q You told us you knew Vershawn Edwards was a cooperator  
23 before you ever got to the courthouse that day, yes?

24 A I don't think we went into that kind of detail, but I  
25 knew that there were a lot of people that cooperated from



1 reading the articles of the Tribune and everything else. So,  
2 yeah, I knew that there were people that were going to be  
3 cooperators that were going to be on trial that day.

4 Q There were no trials that day, were there, Ms. Houston?

5 A I'm sorry. What did you say?

6 Q There were no trials that day. There were only  
7 sentencing hearings.

8 A Okay. Well, I mean -- I called it a trial. Sentencing  
9 hearing. Excuse me.

10 Q Trial is when someone's guilt or innocence or not  
11 guilty or guilt is being established; is that your  
12 understanding?

13 A Okay.

14 Q And a sentencing hearing is after somebody has already  
15 pled guilty and the judge is deciding what the outcome of the  
16 case is going to be in terms of a sentence.

17 A You're the attorney. I'll take your word for it.

18 Q Did you attend sentencing hearings that day or did you  
19 attend trials that day?

20 A There was a lot of testimony going on, so I  
21 assumed there was -- I'll just let you have that. It's a  
22 sentencing hearing. You got it.

23 Q And you knew that of the defendants that were being  
24 sentenced some --

25 A Yes.

1 Q -- had cooperated?

2 A Yes.

3 Q And provided testimony about Malcolm Redmon's  
4 involvement in that narcotics conspiracy that he pled guilty  
5 to, correct?

6 A True.

7 Q Pled guilty to, Malcolm Redmon pled guilty saying he  
8 did it?

9 A He pled guilty with stipulations that he disputed.  
10 There were plenty of things he objected to. Don't go to that  
11 level if you don't want me to answer truthfully.

12 Q I'm asking you if he pled guilty to being involved in  
13 a --

14 A He pled guilty with the understanding that he could  
15 dispute many things at his trial -- his sentencing hearing.

16 Q And he had the opportunity to dispute those, did he  
17 not?

18 A My opinion is something different than what yours will  
19 be but, yes, his attorney had --

20 Q Let's just stop. We don't need to make --

21 A Why are we talking about Malcolm?

22 Q There was a sentencing hearing for Malcolm Redmon, was  
23 there not?

24 A Yes.

25 Q He had a lawyer representing him?

1       A       Yes.

2       Q       And that lawyer presented whatever evidence that lawyer  
3 thought was necessary for the judge to hear for the purpose of  
4 sentencing Malcolm Redmon, correct?

5       A       Okay. Say it again. That the judge did what?

6       Q       The lawyer representing Malcolm Redmon put on whatever  
7 that lawyer thought was necessary to represent Malcolm at that  
8 sentencing hearing?

9       A       Yes. Yes, I would say that he did.

10      Q       And you sat through that sentencing hearing?

11      A       Yes, I did.

12      Q       And the judge made decisions after hearing both sides,  
13 right?

14      A       Yeah, he made a decision.

15      Q       So part of that involved the judge hearing those very  
16 issues that you said Malcolm reserved the right to dispute,  
17 correct?

18      A       Yes.

19      Q       And after putting on his evidence, the judge decided  
20 how to resolve that dispute. The judge resolved the dispute  
21 that Malcolm asked him to resolve, correct?

22      A       Correct.

23      Q       Okay. There was nothing like that that took place at  
24 the Vershawn Edwards' sentencing hearing, was there?

25      A       What do you mean nothing that took place?

1 Q The dispute about everything. Let me say it this way.  
2 How long did the Vershawn Edwards' sentencing hearing take?  
3 A Maybe an hour. I don't recall. I don't know.  
4 Q May we see Exhibit 17, please. If you'll look at the  
5 monitor in front of you, Ms. Houston. That's been admitted as  
6 an exhibit in this trial and it tells us exactly --  
7 A Okay.  
8 Q -- how long it took. How long did it take?  
9 A It says 1:30 to 1:45. I don't have a good time  
10 reference in my mind. So -- I mean, excuse me.  
11 Q Do you have any reason to dispute this?  
12 A No, I don't dispute that at all. If it says 15  
13 minutes. It felt like a lifetime.  
14 Q How long did the sentencing hearing with Malcolm Redmon  
15 take?  
16 A A lifetime in my opinion. It took forever. It felt  
17 like forever.  
18 MR. PORTER: If we could have the witness and only  
19 the witness look at Exhibit 19.  
20 A I didn't have a phone that day. I couldn't look at the  
21 clock. I don't know what time it was.  
22 Q (By Mr. Porter) There's not a question before you,  
23 ma'am.  
24 MR. PORTER: If we could zoom in on the same part  
25 of 19.

1 Q (By Mr. Porter) Do you recognize the caption at the  
2 top of that as being the caption for Malcolm's case?  
3 A Yes.  
4 Q Do you see the time that is indicated there from  
5 beginning and end?  
6 A Yes.  
7 Q Three hours for that sentencing hearing, right,  
8 according to the official court record, correct?  
9 A Yes. Yes.  
10 Q And you sat through that whole sentencing hearing,  
11 didn't you?  
12 A Yes.  
13 Q That's when all the things got resolved that Malcolm  
14 wanted to dispute, right?  
15 A That's when he got sentenced, yes.  
16 Q All right. I want to go back now to the start of Mr.  
17 Edwards' sentencing hearing, and if we can look back again at  
18 Exhibit 17. Since it tells us that that hearing started at  
19 1:30, I want you to sit there for a moment and try to recall  
20 for the benefit of this jury the 30 minutes that preceded 1:30.  
21 I want you to go back in time to about one o'clock that  
22 afternoon.  
23 A Okay.  
24 Q You were seated outside this courtroom waiting for that  
25 hearing or the rest of the court to begin; is that right?

1       A       I was waiting to see Malcolm's attorney. That's what I  
2 was waiting for. But, yes, I was in the hallway.

3       Q       So you were outside this very room that we're in right  
4 now in the hallway of the courthouse that's on the outside of  
5 this room; is that right?

6       A       Yeah. I didn't realize this was the same room but,  
7 yeah, I was on a bench.

8       Q       And a man came down the hallway and you were trying to  
9 identify who that was?

10      A       Yes.

11      Q       And you asked him a question?

12      A       Yes.

13      Q       What did you ask him?

14      A       I said, "Who do you represent?"

15      Q       Did you know who that man was before you asked that  
16 question?

17      A       No.

18      Q       What did he give you by way of an answer?

19      A       He said -- if I recall correctly, I think he just said  
20 he was the attorney for Mr. Edwards.

21      Q       At that time who else was in the hallway outside this  
22 courtroom with you?

23      A       I think it was just me and Bruce, and then I think  
24 Malcolm's kids were there and maybe Courtney and her friend.

25      Q       So you heard that man identify himself as the attorney

1 for Vershawn Edwards?

2 A Uh-huh.

3 Q Right?

4 A Yes.

5 Q And you also heard Mr. Stephens say something

6 immediately after that, correct?

7 A Yes.

8 Q What did Mr. Stephens say after that?

9 A He was just joking with him and he said, "How much do

10 they pay snitches nowadays?" And he kind of chuckled about it.

11 Q Anyone else able to hear that?

12 A I don't know.

13 Q Were you able to hear it?

14 A Yes. I just told you I heard it.

15 Q How far away was Mr. Edwards' attorney when those words

16 were spoken?

17 A Maybe 3 or 4 feet. I don't know.

18 Q In close enough time range to be able to hear that

19 statement -- excuse me -- in a close enough physical range. I

20 said time. He was close enough in space to be able to hear

21 what was said?

22 A I mean, relative -- I don't know. I mean, I guess.

23 There were four or five other people in the hallway talking.

24 Q Prior to the time that Mr. Risley came and was present

25 in the hallway and identified himself as Mr. Edwards' attorney,

1 had you heard Mr. Stephens say anything about snitches?

2 A Prior to that? No.

3 Q That was the first time that day that you heard Mr.

4 Stephens say anything about snitches?

5 A That's all -- yeah. I don't believe I heard anything

6 else prior to that.

7 Q At the end of that Edwards' sentencing hearing, that 15

8 minutes that we saw on Exhibit 17, you saw Mr. Stephens start

9 heading towards the door, correct?

10 A Yes.

11 Q And you said something to him at that time, correct?

12 A Yes.

13 Q What did you say?

14 A I said, "Hopper, calm down," or "Hopper, chill out," or

15 something.

16 Q And by Hopper, who are you referring to?

17 A Bruce.

18 Q That's his nickname?

19 A That's what I call him.

20 Q And you told him to calm down?

21 A Yes.

22 Q You saw trouble coming?

23 A He was just getting loud a little bit and I said calm

24 down.

25 Q Did he heed your advice?



1       A           He reacted to me. He just said, "It's my opinion." He  
2       said, "There's nothing wrong with my opinion." And I said,  
3       "Okay."  
4       Q           And you heard him say some vulgarities as well; is that  
5       correct?  
6       A           I think he said maybe, "This is bullshit," or something  
7       like that.  
8       Q           And you told him to stop, correct?  
9       A           I just told him to calm down. I didn't say stop. I  
10      said calm down. You can play it back on the video.  
11      Q           Well, ma'am, there is no video of what took place in  
12      this courtroom. I don't know what you're referring to, but  
13      there's no video of what took place in this courtroom.  
14      A           Okay. Well, I was under the impression there was.  
15      There's cameras everywhere. I assume there was.  
16      Q           So you would be wrong about that impression, right?  
17      A           Obviously.  
18      Q           So you sat through Mr. Redmon's sentencing hearing?  
19      A           Yes.  
20      Q           When that commotion started occurring with Mr.  
21      Stephens, what did you do?  
22      A           Nothing.  
23      Q           Did you distance yourself from him?  
24      A           Malcolm --  
25      Q           No. I'm talking about Mr. Edwards' sentencing hearing.

1 When the commotion started with Mr. Stephens, you saw that  
2 happening at the front door, the only door of this courtroom,  
3 you distanced yourself from those events, correct?

4 A I just stayed in my own spot where I would have been  
5 the whole time. I didn't go anywhere.

6 Q You didn't want to get entangled in that, correct?

7 A I didn't want to leave out of the courtroom. I didn't  
8 know if they were going to ban people from coming back. I  
9 wanted to stay put.

10 Q And you were sitting in the courtroom at the end of  
11 Malcolm Redmon's sentencing hearing, correct?

12 A Yes.

13 Q That was around five o'clock because we saw earlier  
14 that that's the time that it took to complete Malcolm's  
15 sentencing hearing, correct?

16 A Yes.

17 Q And you heard a statement that was read about the event  
18 that had occurred on the street that you weren't present for  
19 and you didn't know anything about, but there was a statement  
20 read about what occurred on the street involving Mr. Stephens  
21 making a threat. You heard that in this courtroom, yes?

22 A Yes.

23 Q Okay. You didn't know what that was about because you  
24 weren't present? You had no idea what that was referring to  
25 because you hadn't seen anything that occurred on the street,

1 correct?

2 A Correct.

3 MR. PORTER: May I have just a moment, Your Honor.

4 THE COURT: Yes.

5 MR. PORTER: Briefly, Your Honor.

6 Q (By Mr. Porter) After five o'clock when Malcolm

7 Redmon's sentencing hearing was over, you did leave, not just

8 this courtroom but the courthouse, correct?

9 A Yes, I did.

10 Q You found Mr. Stephens?

11 A Yes.

12 Q The two of you drove home?

13 A Yes.

14 Q You asked him what had happened because you had just

15 heard in the courtroom that there had been something happen on

16 the street?

17 A Yes.

18 Q He said nothing happened?

19 A Correct.

20 Q Ms. Houston, I want to take you finally back to the

21 topic of what was happening in the hallway outside of this

22 courtroom prior to the time that Vershawn Edwards was

23 sentenced.

24 A Okay.

25 Q I asked you if Mr. Stephens had said anything about

1 snitches, right?

2 A Yes.

3 Q And you said that he jokingly said something about  
4 snitches getting stitches. Is that all that you recall?

5 A Of him saying to Mr. Edwards --

6 THE COURT: There's an objection. May you approach?

7 (Counsel approached the bench and the following  
8 proceedings were had:)

9 MR. BROWN: As I remember the testimony, she said he  
10 asked how much --

11 MR. PORTER: You're correct. I'll rephrase.

12 (The proceedings returned to open court.)

13 Q (By Mr. Porter) Again, back to that same time period  
14 we were talking about, your testimony here today was that you  
15 heard Mr. Stephens say something about, "How much are they  
16 paying snitches these days?" That's what you told this jury,  
17 correct?

18 A Yes.

19 Q All right. Is that all that you recall him saying  
20 about snitches, him being Mr. Stephens?

21 A To Mr. Risley?

22 Q At that point in time in that hallway is that all you  
23 recall hearing him say?

24 A He talked to the children. He was talking to his  
25 grandkids, but he wasn't talking to Mr. Edwards' attorney.

1 Q Okay. Do you recall listening to a tape recording with  
2 you and I last night when we were visiting?

3 A Yes.

4 Q A tape recording with you on the telephone?

5 A Yes.

6 Q If you had a chance to review a transcript of that tape  
7 recording, would that perhaps refresh your recollection as to  
8 things that were said?

9 A No. I know what you're talking about. I thought you  
10 meant did he say anything to an adult person and, no, he  
11 didn't. I know what you're talking about now. I thought you  
12 were talking about Mr. Risley. I got confused.

13 MR. PORTER: Your Honor, may I approach the witness  
14 for just a moment?

15 THE COURT: To show her an exhibit?

16 MR. PORTER: To have her look at a transcript of a  
17 recording.

18 THE COURT: You may.

19 MR. PORTER: And I can mark it for identification if  
20 the Court would like. We would mark it for identification --  
21 well, actually --

22 THE COURT: If it's used to refresh her memory, you  
23 don't have to mark it.

24 Q (By Mr. Porter) Have you had a chance to review the  
25 document I've just shown you?

1       A           Yes.

2       Q           And you recall hearing that on the tape recording?

3               THE COURT: Will you stand back, Mr. Porter?

4               MR. PORTER: Sorry. Excuse me.

5       A           Yes, it was on the recorder.

6       Q           (By Mr. Porter) And what did you say at that time that

7       Mr. Stephens said about snitches and stitches?

8       A           To the kids. To the kids he said, "Snitches get

9       stitches."

10      Q           It wasn't just the kids, though, was it?

11      A           Yes, it was. He didn't -- he wasn't --

12               MR. PORTER: May I approach again, Your Honor?

13               THE COURT: You may. And bring the document up

14      there.

15      A           He was talking to his grandkids.

16      Q           (By Mr. Porter) Who else was present according to your

17      statement besides Little Malcolm when those statements were

18      made?

19      A           Okay. But you're asking me did he speak these words to

20      any other person. He spoke them to his grandchildren. But my

21      problem was that I was afraid that he was in the earshot of the

22      prosecutor, and so I said, "Your dad out in the hallway in

23      front of the prosecutor is telling Little Malcolm snitches get

24      stitches," and that -- I mean, that's what --

25      Q           What else did you say that he said that happens to

1 snitches?

2 A And that they'll get a new butthole.

3 Q You heard this defendant speak those words that you

4 said on that recording, correct?

5 A Not to the person that he's accused of threatening.

6 That's why I'm lost as to what you want me to do about this.

7 Q I'm not asking you anything other than did he say those

8 words?

9 A Yes.

10 Q Yes.

11 A Okay.

12 MR. PORTER: That's all, Your Honor, for now.

13 THE COURT: Any cross?

14 MR. BROWN: Yes, Your Honor.

15 MR. PORTER: May I recover the exhibit, Your Honor?

16 THE COURT: We'll just leave it up there for now.

17 CROSS-EXAMINATION BY MR. BROWN:

18 Q Ms. Houston, I'm Jim Brown. We've never met; is that

19 correct?

20 A True.

21 Q We've talked on the telephone?

22 A True.

23 Q You're the person that asked Mr. Risley who he

24 represented -- who he represented when he came up the hallway;

25 is that correct?

1       A       Yes, I did.

2       Q       Why did you ask him who he represented? You were

3 looking for Mr. Kelly, Malcolm Redmon's attorney; is that

4 correct?

5       A       Yes, sir.

6       Q       And you had never seen Mr. Kelly before?

7       A       I didn't know who he was. I tried to Google a picture

8 of him to get an idea of him.

9       Q       And Mr. Risley comes up in a suit and tie. You think

10 he might be an attorney. So you asked him, "Who do you

11 represent?"

12      A       Yeah, because his attorney had told me he was going to

13 be attending some of the prior hearings as well, so I was just

14 trying to catch him because it's hard to catch up with the man.

15      Q       How long have you known Mr. Stephens?

16      A       Probably about four or five years now.

17      Q       Do you talk with him regularly?

18      A       Every day pretty much, except this last week.

19      Q       On the 29th of September 2016 were you anxious when you

20 came from Columbia to Jefferson City?

21      A       Was I anxious?

22      Q       Were you anxious?

23      A       Yeah. Yes.

24      Q       Because Malcolm Redmon was getting sentenced that day?

25      A       Yes.



1 Q Was Mr. Stephens anxious?

2 A Yes.

3 MR. PORTER: Objection, Your Honor.

4 THE COURT: Overruled.

5 Q (By Mr. Brown) Was Mr. Stephens anxious?

6 A Yes. Even probably more so than I. It's his son.

7 Q Was Mr. -- were you concerned about Mr. Stephens'  
8 health?

9 A Yes.

10 Q Why?

11 A Because he was sick leading up to me flying home, and I  
12 was really worried about him. I kept telling him he needed to  
13 go to the doctor.

14 Q Would he go to the doctor?

15 A No.

16 Q Why not?

17 A Because he was afraid they were going to put him in the  
18 hospital and that he would miss Malcolm's trial.

19 Q How was it that --

20 A Or hearing, his sentencing hearing, whatever.

21 Q Okay. How was it that you came to see Mr. Stephens on  
22 the morning of the 29th?

23 A I called him. Well, at first we knew the sentencing  
24 was supposed to happen at 9 a.m. They switched it up until  
25 two. Then I got a little worried we needed to go early because

1 I didn't know if they would just do it in succession, like if  
2 somebody finished early and the next person just starts. So I  
3 asked him to please be ready probably no later than ten so that  
4 we could get down here just in case. So I picked him up right  
5 around 10 a.m., I think, and told him to be ready and I'll come  
6 and get him and bring him down here.

7 Q You were his ride down to Jeff City?

8 A Yes. We wanted to come together.

9 Q Was any other relative of Mr. Stephens being sentenced  
10 that day?

11 A Yes.

12 Q Who?

13 A Marlon Jordan.

14 Q And what time was his sentencing?

15 A His was due to start at 11. I wanted to try to get  
16 here at least for his.

17 Q And were you successful?

18 A Yeah. We saw him first.

19 Q You and Mr. Stephens attended Mr. Jordan's sentencing?

20 A Yes.

21 Q Same courtroom?

22 A Yes.

23 Q Do you recall approximately what time that got done?

24 A I thought it was an hour, but I'm probably wrong.

25 Q What did you all do after Mr. Jordan's sentencing?

1       A       Well, I wanted to get him something to eat and make  
2       sure he was eating and drinking. I took him up to McDonald's  
3       just real quick, and I waited in the parking lot. He won't go  
4       in the drive-through. We always go in the parking lot and  
5       he'll go in and use the bathroom.

6       Q       Does he have bathroom issues, do you know?

7       A       Yes.

8       Q       So you left the courthouse in the late morning of  
9       September 29th?

10      A       Yes, sir.

11      Q       And did you return to the courthouse?

12      A       Yes.

13      Q       About what time was that?

14      A       I thought we were gone about an hour, 40 minutes maybe.  
15      It wasn't long. Like we just went up on the Missouri Boulevard  
16      to the McDonald's there, and then he just got something to eat  
17      and drink and I drove right back, and so just there and back  
18      like 30 -- I don't know, 30 minutes, 40 minutes probably. It  
19      was over the lunch hour so it was a little bit busy.

20      Q       Because you were anxious and you wanted to be here for  
21      Malcolm Redmon's sentencing?

22      A       Yes.

23      Q       And when you came back in, you and Mr. Stephens come on  
24      up to the fourth floor?

25      A       Yes.

1 Q Could you get into the courtroom?

2 A No. The door was locked still.

3 Q Did you know whose sentencing was going to happen next?

4 A Not necessarily. I tried to keep up with it on the

5 video thing but it would scroll. I couldn't catch it every

6 single time. So I just waited out there. But I knew -- I kind

7 of had an idea who all was going to be going today -- or that

8 day.

9 Q But there was nothing particular about seeing Mr.

10 Edwards' sentencing that you were aware of?

11 A No. I don't know who that guy is. He doesn't know

12 him. He didn't ever know him.

13 Q So at some point Mr. Risley shows up, right?

14 A Yes.

15 Q And you asked who he is?

16 A Yeah.

17 Q Doors are still locked?

18 A Yes, sir.

19 Q He stands out in the hall a minute?

20 A Mr. Risley?

21 Q Yes, ma'am.

22 A I think he might have tried the door same as we did

23 kind of like -- at that time we were kind of laughing because

24 we all tried the door, whatever.

25 Q Then he wanders off?

1 A Uh-huh.

2 Q And eventually they open the courtroom door?

3 A Yes.

4 Q What happens when they open the courtroom door?

5 A I think everybody just started filing in.

6 Q And when you say "everybody started filing in," who is  
7 that?

8 A Well, by that time there was -- Mr. Edwards' family was  
9 out there too. Like, he had a mother and a girlfriend and I  
10 think the girlfriend's mom too. So his family -- I'll say his  
11 family. I don't know him. But his family, our family. The  
12 prosecutor might have came through the back -- he was in the  
13 hallway for a minute. I want to say he came through that door  
14 over there. Then Mr. Kelly eventually showed up, then we had  
15 more family.

16 Q So --

17 A It was a lot of people.

18 Q And they came into the courtroom?

19 A Yeah.

20 Q Bruce take a seat right there in the front?

21 A Yep.

22 Q You and other family members take a seat over here kind  
23 of --

24 A We sat with the Edwards family over there.

25 Q Edwards family was in the back?

1       A           Yeah.

2       Q           Now --

3                   MR. BROWN: Do you know what exhibit the email is?

4       I'm sorry.

5                   MR. PORTER: No. 7.

6       Q           (By Mr. Brown) Mr. Porter asked you about some

7       announcement that was made in Malcolm Redmon's sentencing. Is

8       that what was read out?

9       A           Not word for word.

10      Q           Okay.

11      A           If I recall correctly, he just stated that he was

12      followed outside and threatened. I don't recall these words

13      being read, not directly word for word, but he just -- the gist

14      of it all was that he felt like he was threatened outside. He

15      was followed outside and threatened, and he thought that it

16      might have been Malcolm Redmon's father.

17      Q           So your impression based on the announcement was that

18      Mr. Stephens followed Mr. Risley out and there was some sort of

19      a confrontation on the street?

20      A           That's what I thought. I mean, I think it was even in

21      Malcolm's transcripts if I read it correctly.

22      Q           Now, Mr. Porter asked you about not doing anything when

23      Mr. Stephens left the courtroom and you saw a scuffle coming

24      on. Do you remember his questions about that?

25      A           Oh, about me not doing anything?

1 Q Uh-huh.

2 A Yes, I remember that.

3 Q What did you see? Did you see a scuffle?

4 A The scuffle was at the doorway.

5 Q Okay. Was it in the doorway right there?

6 A Yes.

7 Q Going out into that little vestibule?

8 A Yeah.

9 Q What did you see happen at that door right there?

10 A The attorney was taking up the walkway for the exit

11 right there, and Hopper just kept saying he needed to get

12 through. And the guy is wide. He was a wide man. And there

13 was some more security people over there, maybe two or three.

14 I don't remember all of them exactly, but there were a couple,

15 few of them over there, and Hopper just kept saying he needed

16 to get through. Let me out. And the man put up his arms on

17 both sides of the door frame because the door was open, and

18 then he said, "No, I'm good. I'll be here for a minute." Then

19 he didn't let Hopper go and then he yelled and told him to get

20 the F out of my way.

21 Q Was there any pushing or shoving or physical contact?

22 A The only shoving was when the man -- so they were

23 really close to each other and Hopper was telling the attorney

24 to get out of the way, let him go, and then he put his arms up

25 there and like stabilized himself, then he kind of bumped back

1 on him.

2 Q Bumped back onto Mr. Stephens?

3 A Yes.

4 Q Eventually did you see Mr. Stephens get through that  
5 doorway?

6 A Yeah. And I don't -- I've been trying to replay it in  
7 my brain. I don't remember exactly how everybody got loose  
8 from there. I don't remember if the guys in the blue jackets  
9 said everybody out or how it all happened, but somehow --  
10 sorry -- somehow it ended up into the middle doors there and I  
11 didn't go out there.

12 Q Were you able to hear anything?

13 A I just heard, I mean, voices.

14 Q You couldn't understand what was being said?

15 A No, I don't know who was saying anything. I didn't  
16 ever go out there to check.

17 Q And you didn't see Mr. Stephens again on the 29th until  
18 after five o'clock in the evening; is that correct?

19 A Yes. I went and found him after I left out of  
20 Malcolm's hearing.

21 Q And where was he?

22 A He was just waiting on the pillar out there for me.

23 Q Mr. Porter indicates that Malcolm's sentencing hearing  
24 took about three hours; is that right?

25 A Yeah.



1 Q And so you were -- you were in the courtroom. You  
2 didn't leave after you came in about 1:30 until after five?

3 A No, I never left.

4 Q You don't know where Mr. Stephens is?

5 A No.

6 Q You don't know what's happened to him, but at this  
7 point it's more important to you that you see Malcolm's hearing  
8 than what happened to Mr. Stephens; is that true?

9 A Yes. I was worried about Malcolm.

10 Q Now, I believe Mr. Porter asked you about what Mr.  
11 Stephens said on the ride home?

12 A Yes.

13 Q And you indicated he denied anything happening, right?

14 A Yes.

15 Q He didn't tell you, I threatened that SOB or whatever?

16 A No, he's never told me that. Every time I tell him to  
17 plead guilty or do anything he said, "No, I'm not going to. I  
18 didn't do it."

19 Q And he's always denied any threats were made to Mr.  
20 Risley; is that correct?

21 A Yes.

22 Q Now, the prosecutor also asked about snitches get  
23 stitches and the comments Mr. Stephens was making out in the  
24 hallway?

25 A Yes.

1 Q And you had a telephone conversation that they recorded  
2 with Mr. Redmon later that day?

3 A Yes.

4 Q And in that you expressed that it wasn't very  
5 appropriate for Mr. Stephens to be saying that to the kids; is  
6 that right?

7 A Yeah. I know Malcolm's protective over the children.  
8 He doesn't want them to hear or see certain things. So I knew  
9 he would be mad at his dad, but I had to tell him.

10 Q But it bothered you he was saying that in front of his  
11 grandchildren?

12 A Yes.

13 Q Quite honestly, it bothered you he was saying it in  
14 front of the prosecutor?

15 A Yeah. All of that bothered me because I didn't want  
16 Malcolm to be -- I just wanted this day to go differently than  
17 it did.

18 MR. BROWN: I don't think I have anything further,  
19 Your Honor -- well, may we approach?

20 THE COURT: Sure.

21 (Counsel approached the bench and the following  
22 proceedings were had:)

23 MR. BROWN: I'm not sure. A lot of this other stuff  
24 wasn't beyond the scope of direct, but I would like to ask her  
25 about the I am tha Town song and that's not been mentioned at

1 this point. I'm going to ask that you release her from her  
2 subpoena and tell her that I'll recall her.

3 MR. PORTER: The witness is here pursuant to a  
4 government-issued subpoena. We're responsible for her travel.  
5 And she's scheduled to leave tomorrow to go back to Dallas. I  
6 don't have any concern about how he wants to do it, but there  
7 needs to be some other arrangements for taking care of her  
8 expenses if we're done with her, and we are.

9 MR. BROWN: Okay. I'm going to -- I can ask her  
10 questions about that right now.

11 MR. PORTER: But it's outside the scope --

12 MR. BROWN: And if they object, then I'm entitled to  
13 ask the Court to not release her from her subpoena; and if that  
14 costs them some money, so be it. It's coming out of the same  
15 pocket whether it's me or her.

16 MR. PORTER: Not exactly. It's coming out of the  
17 same government treasury but not the same budget. Be that as  
18 it may, Judge, I don't want that area explored at this point.  
19 I think it's inappropriate and so -- if that means we have to  
20 reschedule her flight, to me that means he needs to help  
21 mitigate this by getting her on as early as possible in his  
22 case. That's what I'm thinking.

23 MR. BROWN: That's fine. I'll put her on as my  
24 first witness.

25 THE COURT: I won't release her from the subpoena

1 then. We'll take a break now.

2 (The proceedings returned to open court.)

3 THE COURT: We're going to take our afternoon break  
4 at this point, and I would ask if you have any questions, to  
5 write down your questions before we take a break, and we'll  
6 review those questions, and you can take a break while we're  
7 reviewing those questions.

8 Ms. Wheeler, if you would take the jury back to the  
9 jury room, please.

10 (The following proceedings were had in the courtroom  
11 out of the presence of the jury:)

12 THE COURT: Please be seated. If counsel will come  
13 up and we'll look through the questions.

14 MR. PORTER: Can the witness be excused for the  
15 moment, Your Honor?

16 THE COURT: Yes. You may step down.

17 THE WITNESS: Where do you want me to go?

18 THE COURT: In the hallway. And we'll call you  
19 back, and there's probably going to be a 20-minute break.

20 THE WITNESS: Okay. I'll just go use the restroom  
21 or something.

22 THE COURT: On the record. Mr. Brown, will you look  
23 at these and hand me which ones you have objections to.

24 That one he has an objection to.

25 MR. BROWN: This is kind of a three-parter. I might

1 have an objection to one.

2 THE COURT: Do you have an objection to this one?

3 MR. PORTER: Here's my only concern about that  
4 question, and I don't have any concern about the factual nature  
5 of the question, but she has a personal risk of perjury  
6 depending on how she answers that question. Just being totally  
7 candid.

8 MR. BROWN: I think you ought to let the Court know  
9 that.

10 MR. PORTER: I don't mind her answering it. But  
11 there is -- if she says no, she will have exposed herself to a  
12 personal charge based on other evidence accumulated  
13 underlying --

14 THE COURT: Do you think this would be an improper  
15 question if either the government or defense were to ask it of  
16 this witness?

17 MR. BROWN: Yes.

18 THE COURT: What's your basis?

19 MR. BROWN: Well, we are talking about Mr.  
20 Stephens -- I'm too loud when I shouldn't be and not loud  
21 enough when I can. This case is about Mr. Stephens, not about  
22 Malcolm Redmon, and I object to any details of Malcolm Redmon's  
23 case coming in on this jury. I think it exposes my client to  
24 the potential of being convicted over some extraneous matter  
25 that his son's responsible for.

1 MR. PORTER: You want a response, Judge? The fact  
2 that Mr. Redmon's criminal activity and the fact of his  
3 conviction and the nature of that conviction, selling crack  
4 cocaine, is already before this jury. So that risk of  
5 spillover, we've passed that bridge a long time ago. To your  
6 question, it could potentially be relevant for bias and that's  
7 its only --

8 THE COURT: Let's move, then, to the next question.  
9 "She stated he has health problems. What kind and what are the  
10 side effects?"

11 Ms. Orsinger, what's your position? Mr. Porter?

12 MR. PORTER: Your Honor, that is objectionable on  
13 hearsay. She doesn't have -- she can't have any personal  
14 knowledge. Whatever she's going to know is through somebody  
15 else.

16 THE COURT: And what is your position?

17 MR. BROWN: I don't care if you ask that question.  
18 I don't have an objection. He's probably right that she's not  
19 a healthcare provider.

20 THE COURT: I won't ask it then.

21 "Mr. Stephens never told you what -- where he had  
22 been all the time you were in Malcolm's hearing."

23 What is your position, Mr. Brown?

24 MR. BROWN: That's objectionable. This is now  
25 getting into matters if it occurred after the alleged incident

1 with Mr. Risley out on the street. We've got a three-hour  
2 window here and they're basically asking, Did he tell you  
3 anything that happened in the three or four hours that he was  
4 missing? And what he did at four o'clock is not relevant to  
5 what occurred at 1:30 or 1:55 when he got kicked out.

6 THE COURT: What is your position?

7 MR. PORTER: The question is, Did he tell you?

8 THE COURT: Did Mr. Stephens tell you where he had  
9 been? What are -- where he had been all the time during  
10 Malcolm's hearing?

11 MR. PORTER: That was discussed at length post  
12 statement. Cody will testify to that at length.

13 THE COURT: You both feel that this question  
14 shouldn't be asked?

15 MR. PORTER: At this time.

16 THE COURT: "Did Mr. Stephens tell you of his  
17 whereabouts after he was forced to leave the building?"

18 MR. BROWN: I mean, in some ways it's the same  
19 question that we just talked about.

20 MR. PORTER: We're going to have Cody Abram testify  
21 in Mr. Stephens' own words what he said he did.

22 THE COURT: So both your preference is not to ask  
23 this question of this witness?

24 MR. PORTER: Yes.

25 MR. BROWN: Yes.

1 THE COURT: He needs clarification between  
2 relationship between parties in this hearing. What is your  
3 position?

4 MR. PORTER: That's not a question and it doesn't  
5 make any sense and I don't think we can decipher it.

6 MR. BROWN: And I object to it.

7 THE COURT: "When did the witness move to Texas?  
8 Did she always live there?"

9 MR. BROWN: I know the answer to that question  
10 but -- and I don't have any objection to it.

11 MR. PORTER: That's fine.

12 THE COURT: "Did she know all the people being  
13 sentenced and how many?"

14 MR. PORTER: That's fine.

15 MR. BROWN: That's fine with me.

16 THE COURT: "Who read the email to the Court and  
17 during whose sentencing?"

18 MR. PORTER: Your Honor, we've marked for  
19 identification as Government's Exhibit 17 -- excuse me -- 18  
20 the transcript of that sentencing hearing, and I'm going to ask  
21 the Court to take judicial notice of the last two pages of that  
22 transcript. That will answer that question.

23 MR. BROWN: Well, I don't mind if the Court limits  
24 the portion of the transcript -- the reading of the email and  
25 the identity of the person who does it, but I don't remember



1 right off the top of my head what occurs after in the last two  
2 pages. So my position is I don't care if the Court reads the  
3 statement and who made it; but beyond that, I would object to  
4 the introduction of any transcript of Malcolm Redmon's  
5 sentencing hearing.

6 MR. PORTER: Judge, the last two pages -- Judge, it  
7 starts at the top of this page where Mr. Oliver is speaking,  
8 asking the Court to make an additional record. I'll be quiet.

9 THE COURT: "Judge, I would move to dismiss the  
10 original indictment and the other counts of the superseding  
11 indictment to which Mr. Redmon did not enter a plea of guilty  
12 to.

13 "Also, Judge, there's a matter that I want to place  
14 on the record after we have completed the sentencing hearing.

15 "COURT: Very good. Anything additional from the  
16 defendant?

17 "DEFENDANT: Yes, Your Honor. On the various" --  
18 "variance in my criminal history, was that taken into  
19 consideration when asked for a variance in my criminal history  
20 points?

21 "COURT: I considered all of that in coming up with  
22 my sentence, yes, sir.

23 "DEFENDANT: So I'm at a 35 was my final offense  
24 level you said?

25 "COURT: Your final offense level was a 35, and your

1 criminal history category was a VI.

2 "KELLY: Mike, do we need to clear the courtroom for  
3 this?

4 "OLIVER: Yes.

5 "KELLY: Judge, we'd ask the courtroom be cleared  
6 for the next part.

7 "OLIVER: Judge, I can't ask the courtroom be  
8 cleared. What I want is to make a record outside the hearing  
9 of the gallery. Let me explain. I think I'm just going to put  
10 this on the record out in the open, Judge.

11 "At 3:37 this afternoon I received an email from  
12 counsel for Vershawn Edwards. Counsel advised in an email that  
13 he was followed outside and threatened, both he and his family,  
14 after an altercation outside the courtroom, and that he  
15 believes that the individual was Mr. Redmon's father. And I  
16 responded to his email instructing him to make a report about  
17 what had transpired.

18 "COURT: Very good. You have something else you'd  
19 like to say, Mr. Kelly? You look like it.

20 "KELLY: I was standing up for you, Judge.

21 "COURT: Okay. If there's additional record you  
22 need to make.

23 "KELLY: I think you talked about the appeal and the  
24 14 days.

25 "COURT: I talked about the appeal. We'll be in

1 recess."

2           What is important to you in that? That the sentence  
3 was completed?

4           MR. PORTER: It's not the first part, Judge. I just  
5 wanted you to have the context. I think the important part is  
6 that Mr. Oliver did what he did on the record in open court,  
7 and the verbiage that's in the transcript is what the witness  
8 heard who's on the stand right now.

9           THE COURT: My concern is that this verbiage didn't  
10 affect his sentence clearly because he had been rendered his  
11 sentence prior to that.

12           MR. PORTER: Correct. Correct, Your Honor.

13           THE COURT: So I don't want to mislead the jury if  
14 there's an implication that Oliver's comment of --

15           MR. BROWN: Right.

16           THE COURT: -- "he followed me outside" increased  
17 Malcolm's sentence.

18           MR. PORTER: I think you can make it clear that this  
19 was read after the sentencing hearing was over. It was all  
20 done.

21           MR. BROWN: And the portion that starts at "3:37  
22 this afternoon" and down. So lines 3 through 10 I don't have a  
23 problem with.

24           THE COURT: Would counsel be agreeable to leading  
25 the witness in this series of questions regarding after the

1 sentencing hearing Assistant U.S. Attorney Mike Oliver placed  
2 on the record the email -- is this the correct reading of what  
3 transpired in court?

4 MR. PORTER: I would be comfortable trying, Judge.  
5 I'm not confident of success even in leading, because I had a  
6 different witness on the stand than the one that talked to me  
7 last night.

8 MR. BROWN: Me too. I've had a different  
9 personality in telephone calls.

10 THE COURT: And where I'm concerned is the question  
11 reads, "Who read the email to the Court," question mark? And  
12 during whose sentencing? And why was that done during a  
13 sentencing hearing?"

14 MR. BROWN: She's not going to know the answers to  
15 those.

16 MR. PORTER: She will not know why it is read.

17 THE COURT: Right.

18 MR. BROWN: And she's not going to know Mr. Oliver.

19 THE COURT: I think she attended the hearing.

20 MR. BROWN: Yeah. She might be able to say the  
21 prosecutor.

22 MS. ORSINGER: She knows Oliver. She said his name  
23 before.

24 MR. BROWN: Okay. Well, fine. I don't care. And  
25 if -- Oliver after the sentence was imposed, something like

1     that.

2                 THE COURT:   Or the prosecutor --

3                 MR. BROWN:   Right.

4                 THE COURT:   -- Mr. Oliver.   Okay.   And if we would  
5     then lead -- what's her name?   Houston.

6                 MR. PORTER:   I think maybe I'm going to try -- the  
7     best way to try to lead her through is to have her read the  
8     transcript of what Oliver said out loud to the jury.

9                 MR. BROWN:   Lines 3 through 10.

10                MR. PORTER:   Yes, the lines we're talking about.  
11     She's seen that transcript.   She read it last night.

12                THE COURT:   Okay.   So we could have her refresh her  
13     memory on these two pages.

14                MR. BROWN:   Yes.   I just don't want more than the  
15     statement.

16                MR. PORTER:   We don't need to do more.   We don't  
17     need to answer more than the question that's been asked.

18                THE COURT:   Right.   Okay.   The next, "What pillar  
19     did you see him at when you found him at 5 p.m. outside the  
20     courthouse?"   Any objection?

21                MR. BROWN:   No.

22                MR. PORTER:   No.

23                THE COURT:   "You stated you do not -- you did not  
24     know Edwards.   So why did you and defendant attend his hearing  
25     for sentencing on September 29th?"

1 Any objection?

2 MR. PORTER: No.

3 MR. BROWN: No.

4 THE COURT: "How did you figure out Edwards was a  
5 cooperative -- cooperating witness?"

6 Any objection?

7 MR. BROWN: Yes.

8 THE COURT: What is your objection?

9 MR. BROWN: Well, I think she -- she stated in  
10 response to Gene's question about that she didn't know. She  
11 kind of figured it out. I think she didn't know.

12 THE COURT: The question is, "How did you figure out  
13 Edwards was a cooperating witness?" She said she figured it  
14 out.

15 MR. BROWN: Well, I would like to talk with her  
16 before she answered that.

17 MR. PORTER: Wouldn't we all?

18 MR. BROWN: I mean, she's not my witness.

19 MR. PORTER: I don't have any problem with the  
20 question.

21 MR. BROWN: It asks something that we have no idea  
22 what she's going to say, and she could say something really  
23 objectionable that we couldn't unring.

24 THE COURT: For example, give us a worse case  
25 scenario. I'm trying to think of what she could say.

1 MR. BROWN: I got a list of people who cooperated  
2 from Mr. Stephens.

3 MR. PORTER: She's not going to say that.

4 MR. BROWN: She asked, for an example --

5 THE COURT: And that would be pretty relevant.

6 MR. PORTER: That would be really relevant.

7 MR. BROWN: Except -- okay.

8 THE COURT: Give us another example.

9 MR. BROWN: I wouldn't want that. I don't know. It  
10 scares me and that's all I can say.

11 THE COURT: Do you have any objection to it, Mr.  
12 Porter?

13 MR. PORTER: No.

14 THE COURT: I would have allowed you to ask her  
15 that. I would have allowed both defense and government.

16 MR. BROWN: Well, if I knew the answer to that  
17 question, I might have asked it.

18 THE COURT: "Were you aware of your call via phone  
19 with Malcolm being recorded?"

20 MR. PORTER: No objection.

21 MR. BROWN: I don't have any objection. It's one of  
22 those jail calls.

23 MR. PORTER: Judge, I want to come back to this one.  
24 It's Oliver instead of Olive. And we're not going to ask the  
25 why question at the end.

1 THE COURT: Exactly. That's what my markings were.  
2 Thank you for clarifying that.

3 "Did Stephens make any comments while in the gallery  
4 during or immediately after Edwards' hearing?" I don't know  
5 that was cleanly asked.

6 MR. BROWN: I don't have an objection. We've asked  
7 other people. Let's see what she remembers.

8 THE COURT: "Were you upset with Edwards for  
9 cooperating?"

10 Any objection?

11 MR. BROWN: Not relevant what her feelings about  
12 Edwards are. Whether she was upset that Edwards was a  
13 cooperator is not an issue. It might be relevant if Mr.  
14 Stephens was upset. But whether she was upset because --

15 MR. PORTER: It's not relevant, Judge.

16 THE COURT: "Did you blame Edwards for Redmon's  
17 sentence?"

18 MR. PORTER: Not relevant.

19 MR. BROWN: No, it really isn't.

20 THE COURT: "How did you know all of Edwards family  
21 members if she didn't know who he was?" Any objection?

22 MR. PORTER: No.

23 MR. BROWN: No, not really. I would like to hear  
24 that too.

25 THE COURT: "Are you concerned about your safety if



1     you speak negatively of Stephens?"

2             Any objection? Do you have any objection?

3             MR. BROWN: No.

4             MR. PORTER: No.

5             THE COURT: And you have no objection?

6             MR. BROWN: No. There's a question on the back of  
7     that.

8             THE COURT: "How do you know he had health problems?  
9     Did he go to the doctor after?"

10            MR. PORTER: That's the same kind of hearsay problem  
11     we had before, I think, Judge.

12            THE COURT: What is your position? I guess if she  
13     drove him to the doctor or she went with him to the doctor.

14            MR. PORTER: The open-ended invites the hearsay  
15     response. It didn't ask for what did you do.

16            MR. BROWN: I will object to that.

17            THE COURT: Okay. We won't ask that.

18            And "Were you aware Malcolm was selling crack  
19     cocaine?"

20            Jim, you object to this?

21            MR. BROWN: Yes.

22            THE COURT: Mr. Porter, what is your position?

23            MR. PORTER: That fact is already in front of the  
24     jury in the form of the nature of the charge, the fact of  
25     conviction, and it goes to her bias as to her being here today.

1 If she says, "I didn't know," then I think there's a bias  
2 implication there.

3 THE COURT: So do you object or are you okay with  
4 this question being asked?

5 MR. PORTER: I would like to have the question  
6 asked. This is also the one that has the perjury connotation.

7 THE COURT: I understand. But that's a fair  
8 question regarding the nature of this offense and her  
9 relationship to Malcolm and this defendant.

10 MR. BROWN: If it's going to have potential criminal  
11 consequences, don't you think she ought to have some sort of  
12 advice before we invite her to answer a question that may  
13 incriminate her in the future?

14 THE COURT: She's under oath. I don't know. Is she  
15 charged?

16 MR. BROWN: No. But what I'm hearing anyway is that  
17 based on her answer, Gene may charge her with --

18 MR. PORTER: Wait a minute. That's not what I'm  
19 saying.

20 MR. BROWN: Okay. Tell me what you're saying.

21 MR. PORTER: It's no different than any other  
22 witness who is on the stand and exposes themselves to perjury  
23 by either telling the truth or not telling the truth. All I'm  
24 saying based on what I know her answer to that should be yes.  
25 But if she says --

1 THE COURT: I'll have her testify outside the  
2 hearing of the jury as a proffer to see what happens.

3 MR. PORTER: On just that one question?

4 THE COURT: Yes, advising her of any statement she  
5 previously made. I want to be careful.

6 MR. PORTER: Okay.

7 THE COURT: Outside the hearing of the jury.

8 MR. BROWN: On this one I'm clueless, you know. I  
9 don't know what the government knows, anything like that. So I  
10 don't know what a good answer or bad answer would be.

11 THE COURT: Let's call her in. We have a few  
12 minutes. Let's call her in and find out without the jury in  
13 the courtroom.

14 MR. PORTER: Your Honor, before you inquire, do we  
15 need to have the defendant present?

16 THE COURT: Yes. Mr. Stephens is now back in the  
17 courtroom. We have not brought the jury in yet.

18 But we have Ms. Houston back on the stand.

19 Ms. Houston, I remind you, you are still under oath.  
20 After questioning by the attorneys, the jurors have an  
21 opportunity to write questions on cards, and we have a few  
22 questions that they will ask you when the jury comes back in,  
23 but one question I wanted to ask outside the hearing of the  
24 jury, just in case there are implications regarding any perjury  
25 potential charges or, in other words, it's imperative that you

1 tell the truth.

2           The question is, "Were you aware Malcolm was selling  
3 crack cocaine?" And I don't know if you've given a statement  
4 one way or the other that's recorded in any way; but if you  
5 were to give a different statement, could have some  
6 implications.

7           THE WITNESS: Yeah, I'm not comfortable answering  
8 that.

9           THE COURT: Well, my point is that you have to  
10 answer truthfully and --

11           THE WITNESS: At any point in his life you mean?  
12 Ever?

13           THE COURT: This is directed at the underlying  
14 offense in this case of his drug conspiracy.

15           THE WITNESS: Well, that's why I'm not comfortable  
16 answering that because his drug conspiracy, in my opinion, the  
17 judge goes way back to his -- all of his prior offenses when  
18 they convicted him. So for me to say that I never knew that he  
19 ever sold any crack cocaine, I can't -- I don't feel  
20 comfortable answering that, and I don't know why the jury would  
21 want to know that from me, quite frankly. Like, I'm not --

22           THE COURT: Were you aware of him selling crack  
23 cocaine at the time charged in the indictment?

24           THE WITNESS: You realize the time frame was like  
25 years.

1 THE COURT: And were you aware of Malcolm selling  
2 crack cocaine during those time years?

3 THE WITNESS: Do I have to answer that? I mean, I'm  
4 asking somebody.

5 MR. BROWN: Judge, it appears to me that the witness  
6 is uncomfortable with this question and in fairness, she ought  
7 to have an opportunity to consult with an attorney if she's  
8 uncomfortable answering that.

9 MR. PORTER: Your Honor, the answer to that question  
10 does not implicate any Fifth Amendment right she might have  
11 regarding that conduct. She's not being asked did she sell any  
12 crack cocaine. And I've made it clear to her as of last night  
13 that she has no reason to fear a prosecution of her based on  
14 drug distribution during the time period charged in that  
15 conspiracy, and I'm saying that now for the benefit of the  
16 Court as an officer of the court, which is same thing I told  
17 her last night. That's not that question. That question is  
18 did she know or was she aware that Malcolm was selling crack  
19 cocaine. That doesn't implicate her Fifth Amendment right.

20 MR. BROWN: Well, may I make -- perhaps make -- did  
21 she know that Malcolm pled guilty to selling crack cocaine?

22 MR. PORTER: That's not the same question.

23 MR. BROWN: Okay.

24 THE COURT: I think that isn't the same question. I  
25 think the juror wants to know, "Were you aware of Malcolm

1 selling the crack cocaine in the indictment period of the  
2 underlying offense?"

3 THE WITNESS: I honestly don't want to answer that  
4 question. I mean, am I obligated to answer that question or go  
5 to jail? I mean, what are the consequences if I say that I do  
6 not feel comfortable answering that question. I have nobody  
7 here to consult with.

8 MR. PORTER: Your Honor, I think you can direct the  
9 witness to answer. That's why we're doing this outside the  
10 presence of the jury so we don't have this problem in front of  
11 the jury.

12 MR. BROWN: Well, here's the other problem I have  
13 with this. This is a result of a jury question. Neither Mr.  
14 Porter or I during direct or cross asked her about her  
15 knowledge of his selling crack cocaine. So if nothing else,  
16 it's beyond the scope of both direct and cross-examination.

17 THE COURT: The Court finds that it is relevant to  
18 her interest, bias, prejudice, her credibility. So I think it  
19 is probative, and I am -- want to limit this question to is she  
20 aware that he was selling crack cocaine, not her involvement in  
21 any way, and I would not allow any questions beyond that, but  
22 that point obviously is probative to this jury, and I find that  
23 it is a probative question specifically to her interest, bias,  
24 prejudice, her credibility as a witness.

25 What is your answer? Were you aware Malcolm was

1 selling crack cocaine during the time period charged in the  
2 indictment in the underlying case?

3 THE WITNESS: So my answer to that will be that  
4 Malcolm always asserts that he was selling powder cocaine; that  
5 he was not selling crack cocaine.

6 THE COURT: Are you attorneys satisfied with that  
7 response, that Malcolm asserts that he was selling powder  
8 cocaine, not crack cocaine?

9 MR. PORTER: May I have a moment, Your Honor? The  
10 problem with that answer, Your Honor, is that she's not  
11 responding based on her personal knowledge. She's providing a  
12 hearsay answer based on the statements of Mr. Redmon. Malcolm  
13 always asserted that. It doesn't say anything about her  
14 knowledge. She's trying to be his mouthpiece when she makes  
15 the statement about what Malcolm claims. So it's nonresponsive  
16 and also has a hearsay component.

17 THE COURT: Outside of Malcolm's claim that he was  
18 not selling crack cocaine and that he was only selling powder  
19 cocaine, were you aware of Malcolm selling cocaine during that  
20 time period?

21 THE WITNESS: I never personally witnessed him with  
22 cocaine, nor did I ever personally witness him sell cocaine.

23 THE COURT: Does that clarify, Mr. Porter?

24 MR. PORTER: Again, it's an argumentative answer  
25 that's not responsive. Were you aware? It doesn't say, Did

1 you see it? It says, Were you aware? And it's a simple, yes,  
2 I was aware or, no, I was not aware. I know the witness  
3 doesn't want to answer the question.

4 MR. BROWN: Then that's the problem with the  
5 question. Was she aware? He pled guilty. Of course, she was  
6 aware. But did she have any personal knowledge? That's a  
7 different question.

8 THE COURT: What is the time period of the  
9 underlying indictment? Do you have that at your fingerprints  
10 or no?

11 THE WITNESS: 2011 to 2014. Over a three-year span.

12 THE COURT: And, Ms. Houston, if I limit the  
13 question to, Were you aware Malcolm Redmon was selling cocaine  
14 during the period of 2011 to 2014 charged in the underlying  
15 indictment, what would your answer be?

16 THE WITNESS: Well, I can't -- it's hard because I  
17 know now. He's told me.

18 THE COURT: At the time.

19 THE WITNESS: At the time, no. I tried every day to  
20 get him to go to job interviews. I enrolled him in college. I  
21 did everything under the sun to keep him out of trouble. Did I  
22 hear things? Of course. Do I believe everything I hear? No.

23 THE COURT: Mr. Porter, do you have any follow-up  
24 questions while the jury is still out?

25 MR. PORTER: No, Your Honor.



1 THE COURT: Mr. Brown, do you have any follow-up  
2 questions?  
3 MR. BROWN: No.  
4 THE COURT: Thank you.  
5 If you will call the jury back. And I think it's  
6 best if we don't ask this question. Mr. Brown, I think it's  
7 best if we don't ask this question.  
8 MR. BROWN: I agree.  
9 THE COURT: We'll leave it at that.  
10 MR. PORTER: I know you haven't had a chance to get  
11 off the bench.  
12 THE COURT: I'm fine. How are you?  
13 MR. PORTER: Just one minute.  
14 (The following proceedings were had in the presence  
15 of the jury:)  
16 THE COURT: Please be seated.  
17 WENDY HOUSTON resumed the stand and testified:  
18 THE COURT: Ms. Houston, you are still under oath  
19 and we have a few questions from the jury, please.  
20 THE WITNESS: Thank you.  
21 QUESTIONS FROM THE JURY BY MR. PORTER:  
22 Q Ma'am, as the judge indicated, these are questions that  
23 have been requested to be asked by the jury and I'm just going  
24 to read them.  
25 A Okay.

1       Q       You stated that you did not know defendant Edwards so  
2 why did you and this defendant attend the hearing for  
3 sentencing on September 29th?

4       A       I personally wanted to take notes. I was trying -- in  
5 my mind I was trying to gauge what may happen at Malcolm's  
6 trial based on what had happened at the trials -- or the  
7 sentencing hearings that were leading up to Malcolm's  
8 sentencing hearing. So in my mind I thought, well, I went to  
9 Marlon's and I knew he had gotten a lot of time, and I was just  
10 trying to gauge, to prep myself mentally, emotionally, whatever  
11 you want to call it for what may happen at the end of the day  
12 with Malcolm honestly.

13      Q       The next question from the jury is, how did you figure  
14 out Edwards was a cooperator?

15      A       I knew that there were several people that had  
16 cooperated against him. Whether it was really true or not I  
17 didn't really know until obviously the court hearing. I had  
18 heard through hearsay. And then there was an article in the  
19 Tribune that I think talked about who was going to be sentenced  
20 and perhaps who was going to cooperate against him. Just  
21 through word of mouth and stuff like that. I didn't know Mr.  
22 Edwards, but I knew there were several defendants that were  
23 going to cooperate with the government, which is their choice,  
24 whatever.

25      Q       The next question from the jury is, were you aware of

1 your call via phone with Malcolm being recorded?

2 A Absolutely. Every single time he calls, it tells you  
3 at the beginning before you even accept to pay for the call, it  
4 tells you that this call is subject to recording and  
5 monitoring, and I think it even tells me that it could monitor  
6 my location of my cellular device. So, yeah, I knew. I didn't  
7 care. I knew he was going to be mad at his dad and I was going  
8 to tell him.

9 Q What pillar did you see Mr. Stephens at when you found  
10 him at 5 p.m. outside the courthouse?

11 A Okay. So if you walk out the very front of the court  
12 and you go through the little glass doors and they'll give you  
13 back your phone at the end of the day and you exit; and then if  
14 you don't go over here to the pedestrian walk that's kind of  
15 like facing the prison, if you don't go to that one and you  
16 just kind of cut right directly straight through the courtyard  
17 right there and then go -- he was at the very last pillar  
18 closest to the street sitting. It was like at the -- like if  
19 that clock up there is the circle of the courtyard out front of  
20 the courthouse, he was at the pillar -- at the very edge of the  
21 steps that go to the street. That's all I can tell you.

22 Q The next question is, did Mr. Stephens make any  
23 comments while in the gallery during and immediately after the  
24 Edwards hearing?

25 A The only thing that I remember him saying was like

1 this -- he was just frustrated with the judgment, and so he was  
2 saying like, "This is bullshit," or something like that and  
3 that's when I think I said, "Calm down," because he had to walk  
4 by me because I was sitting right there, like where the  
5 gentleman in the back coat is. I was sitting in that  
6 particular location. So he had to walk by me to exit the  
7 courtroom, and I just said, "Hopper, calm down." And he was  
8 like, "No, I'm entitled to my opinion."

9 Q Next question is, how did you know all of Edwards'  
10 family members if you didn't know who he was?

11 A Because there were other -- oh, the judge told us that  
12 he had support of his mother, his sister, and his girlfriend  
13 was here and she may have had a baby with her. I don't recall.  
14 The judge told us that because they were talking about who was  
15 here to support each defendant in the hearings.

16 Q The next question, are you concerned about your safety  
17 if you speak negatively of Mr. Stephens?

18 A Nope. No. I told on him already to his son. He knows  
19 I'm going to tell on him if he did something wrong.

20 Q The next question is, when did you move to Texas? Have  
21 you always lived there?

22 A No. I lived in Columbia. I moved to Texas for a new  
23 job in August. Actually, I moved -- I left my job here on  
24 August 18th, moved on August 19th, and started my job down  
25 there on August 31st of 2015. I've been there just over a

1 year.

2 Q The next question is, did you know all the people being  
3 sentenced and, if so, how many?

4 A No. I don't know any -- well, any of them on that day  
5 other than Marlon, which I said that was the only one I was  
6 really worried about trying to attend, which was the eleven  
7 o'clock hearing and that was Malcolm's family. But on that  
8 day, no. The other ones I didn't know. I didn't know Vershawn  
9 or any of the other ones. We saw their families in the  
10 hallway, but I didn't know them. Malcolm's family just spoke  
11 to them but we just kept it moving.

12 MR. PORTER: Your Honor, the next question is the  
13 one that you wanted us -- the last question that you wanted us  
14 to lead through. Permission to approach the witness with the  
15 transcript?

16 THE COURT: Yes.

17 Q (By Mr. Porter) Ms. Houston, I've handed you what's  
18 been marked for identification as Government's Exhibit 19. Do  
19 you see that number on the first page?

20 A Okay. 18.

21 Q Does it say 18? I'm sorry if I misspoke.

22 A Yeah, 18.

23 Q Government's Exhibit 18 marked for identification?

24 A Yep.

25 Q And the face sheet of that identifies it as the

1 transcript of the sentencing hearing for Malcolm Redmon,  
2 correct?

3 A Yes. I recognize it.

4 Q We actually talked about this last night, correct?

5 A Did we? I don't remember. Yeah, maybe.

6 Q Turn to the last page.

7 A (Witness complied.)

8 Q And I want to direct your attention to lines 3 through  
9 10 on the last page, which should be noted at the bottom as  
10 page 108. Do you have that in front of you?

11 A Yes, I do.

12 Q Before we refer to that specifically, flip back to the  
13 previous page.

14 A (Witness complied.)

15 Q And does it indicate at the bottom of page 107 the  
16 identity of the person that's speaking?

17 A Do you mean Mr. Oliver? Is that what you are talking  
18 about, line 24?

19 Q Does it say Mr. Oliver?

20 A Yeah.

21 Q Who did you know Mr. Oliver to be?

22 A The prosecutor.

23 Q So flip back over to the next page starting at line 3.

24 A Yes.

25 Q Tell us what is on the transcript on pages -- or excuse

1 me -- lines 3 through 10. Just read it for us.

2 A It says, "At 3:37 this afternoon I received an email  
3 from counsel for Vershawn Edwards. Counsel advised in an email  
4 that he was followed outside and threatened, both he and his  
5 family, after an altercation outside the courtroom and that he  
6 believes the individual was Mr. Redmon's father, and I  
7 responded to his email instructing him to make a report about  
8 what had transpired." Yeah, I think that's what I told you  
9 last night.

10 Q And that is what you heard in the courtroom?

11 A Yeah.

12 Q At the very end of Malcolm's sentencing hearing?

13 A Right.

14 Q Malcolm's sentence had already been pronounced?

15 A Yep.

16 Q That statement had nothing to do or had no impact of  
17 Malcolm's sentence because Malcolm's sentence was already done  
18 and over with?

19 A That's correct. Yeah.

20 THE COURT: Any further questions, Mr. Porter?

21 MR. PORTER: Not subject to redirect, no, Your  
22 Honor.

23 THE COURT: Mr. Brown, do you have any follow-up?

24 MR. BROWN: Yes, Your Honor.

25 RECROSS-EXAMINATION BY MR. BROWN:

1 Q I think in one of your answers about being afraid of  
2 Mr. Redmon, you said I told on him already?

3 A On Hopper?

4 Q Yeah. Excuse me.

5 A Yeah.

6 Q When you say that, do you mean you told Malcolm about  
7 what had occurred? It isn't like you --

8 A Yeah. Yeah. I mean, if he's going to get mad at me  
9 for telling on his son -- telling to his son.

10 Q Right. And is it fair to say when you told Malcolm,  
11 you said, "Don't tell your dad but?"

12 A Yeah.

13 Q And you're not afraid of Mr. Stephens at all, are you?

14 A No. He got his butt chewed out.

15 THE COURT: Any questions?

16 MR. PORTER: Just one, Your Honor.

17 REDIRECT EXAMINATION BY MR. PORTER:

18 Q The reason you're not afraid is because you're not  
19 snitching on Mr. Stephens, are you?

20 A No. I'm telling you what happened. That was a trick.  
21 I gotcha.

22 MR. PORTER: That's all, Your Honor.

23 THE COURT: Any other questions, Mr. Brown?

24 MR. BROWN: No, Your Honor.

25 THE COURT: Thank you. You can stand down.



1 (Witness excused.)

2 THE COURT: Mr. Porter, will you call your next  
3 witness?

4 MR. BROWN: Judge, the subpoena, the government's  
5 subpoena.

6 THE COURT: Yes. You will need to -- you're still  
7 under subpoena in case the defense wants to call you in their  
8 case in chief if they elect to, but you can leave the courtroom  
9 for now.

10 THE WITNESS: You mean go home, like go back to my  
11 hotel?

12 MR. PORTER: We'll get an explanation for the  
13 witness outside the presence of the jury, Your Honor.

14 Your Honor, if the Court please, Cody Abram is our  
15 next witness.

16 CODY ABRAM, being sworn by the courtroom deputy, testified:

17 MR. PORTER: Your Honor, before we begin, may Mr.  
18 Brown and I have a moment at the bench?

19 THE COURT: Absolutely.

20 (Counsel approached the bench and the following  
21 proceedings were had:)

22 MR. PORTER: Your Honor, I don't know the  
23 significance of this, but just in the interest of putting  
24 everybody on notice of the same facts, Linnel Beckner is on the  
25 defense witness list. He's informed Mr. Abram that he does not

1 plan to be here tomorrow because it's his birthday and if he's  
2 not under subpoena, he's not planning on coming back tomorrow.

3 Is Mr. Beckner under subpoena?

4 MR. BROWN: Yes. I served him this morning.

5 MR. PORTER: He's stating he's not planning on  
6 coming back tomorrow because it's his birthday. You can  
7 confirm with him he does need to be here even though it's his  
8 birthday.

9 THE WITNESS: I will tell him.

10 MR. PORTER: Thank you, Judge.

11 (The proceedings returned to open court.)

12 MR. PORTER: May I inquire, Your Honor?

13 THE COURT: You may.

14 DIRECT EXAMINATION BY MR. PORTER:

15 Q Good afternoon, sir.

16 A Good afternoon, sir.

17 Q Would you please begin by stating your full name and  
18 for the benefit of our court reporter spell both your first and  
19 last names.

20 A Sure. My name is Cody Abram, C-o-d-y, last name is  
21 A-b-r-a-m.

22 Q What's your occupation, sir?

23 A I'm a special agent with the FBI.

24 Q Are you one of the law enforcement agents who  
25 investigated the alleged criminal activity of this defendant,

1 Bruce Wayne Stephens?

2 A Yes, sir.

3 Q Mr. Abram, I want to direct your attention to October  
4 the 12th of 2016. Did your investigation include an interview  
5 of the defendant on that date, October the 12th?

6 A Yes, sir.

7 Q Tell us where the interview took place.

8 A The interview took place subsequent to the arrest of  
9 Mr. Stephens at the Columbia Police Department in Columbia,  
10 Missouri.

11 Q Was Mr. Stephens read his Miranda rights prior to being  
12 interviewed?

13 A Yes, sir.

14 Q Did he waive those rights and agree to speak with you?

15 A Yes, he did.

16 Q Is the same Bruce Wayne Stephens that you interviewed  
17 on October the 12th, 2016, present in the courtroom today?

18 A Yes, sir.

19 Q And can you identify him by stating where he's located  
20 and what he's wearing?

21 A Mr. Stephens is located next to his counsel, Mr. Jim  
22 Brown. He's wearing a brown shirt and orange T-shirt  
23 underneath it.

24 MR. PORTER: Your Honor, may the record reflect the  
25 identification of the defendant?

1 THE COURT: The record will so reflect.

2 Q (By Mr. Porter) Special Agent Abram, I want to now  
3 direct your attention to what's been marked for identification  
4 as Government's Exhibit 1, and if we can have that displayed to  
5 you and counsel but not the jury just yet, and ask you after  
6 you're able to see it whether you recognize Exhibit 1 marked  
7 for identification?

8 A Exhibit 1 is the FBI's advice of right form. It's a  
9 federal document 395.

10 Q Does it have writing on it, handwriting?

11 A Yes, sir.

12 Q Is it the rights advice form that you used when you  
13 spoke with Mr. Stephens?

14 A It is.

15 MR. PORTER: Offer Exhibit 1, Your Honor.

16 MR. BROWN: No objection.

17 Q (By Mr. Porter) If we can now all look at Exhibit 1  
18 together.

19 THE COURT: Exhibit 1 is admitted.

20 Q (By Mr. Porter) Was anyone else present during that  
21 interview besides you and the defendant on October the 12th?

22 A Special Agent Charlie Tomlin with the ATF was present.

23 Q Was that October 12th, 2016, interview of the defendant  
24 recorded on video at the time of the interview?

25 A Yes, sir.

1 Q And if I could, sir, I would like to direct your  
2 attention now to what's been marked for identification as  
3 Government's Exhibit 2. I can't put that in front of you  
4 because it's not a paper document, but are you familiar with  
5 what I'm referring to about Government's Exhibit 2?

6 A No, not off the top of my head.

7 Q Did we make -- the video recording was marked for  
8 identification as Exhibit 2?

9 A Okay. Yes.

10 Q You had an opportunity to review Exhibit 2 marked for  
11 identification prior to your testimony here today?

12 A Yes, I have.

13 Q And is it a true and accurate video recording of the  
14 interview between you and the defendant on October 12th?

15 A Yes, it is.

16 MR. PORTER: Offer Exhibit 2, Your Honor.

17 MR. BROWN: No objection.

18 THE COURT: Exhibit No. 2 is admitted.

19 Q (By Mr. Porter) Special Agent Abram, you've had an  
20 opportunity to review that videotaped recording of that  
21 interview on October the 12th. From recollection,  
22 approximately how long did the entire interview last?

23 A The interview lasted approximately 30 to 35 minutes of  
24 actual contact with Mr. Stephens.

25 Q And the video itself is slightly longer than that?

1       A       I believe it's roughly 40 to 45 minutes.

2       Q       And why is it slightly longer than the actual interview  
3 itself?

4       A       The video captured Mr. Stephens going into the  
5 interview room by himself until I entered the room. So there  
6 was some time on the front end of that interview. And then  
7 when I was done with the interview, there was some time when  
8 Mr. Stephens was still in the interview room. So that's maybe  
9 the difference in that time.

10      Q       So during those times, there was no questioning or  
11 conversation taking place. Mr. Stephens was simply sitting in  
12 the room by himself?

13      A       That's correct.

14      Q       And that footage is recorded because that's how the  
15 camera operates?

16      A       That's right.

17      Q       As long as someone's in the room, the video is running?

18      A       The video is running as soon as anybody enters the  
19 room.

20      Q       Prior to trial, did we use Government's Exhibit 2, the  
21 entire 37 minutes or 35 minutes of the actual interview, to  
22 prepare separate video clips with certain relevant portions of  
23 that interview?

24      A       That's correct.

25      Q       Let me direct your attention first then to what's been

1 marked for identification as Government's Exhibit 2(a).

2 A Okay.

3 Q Again, since it's a video and we're not actually  
4 looking at it, can you recall from memory the portion of the  
5 video that's on Exhibit 2(a)?

6 A No, not from memory.

7 MR. BROWN: May we approach, Your Honor?

8 (Counsel approached the bench and the following  
9 proceedings were had:)

10 MR. BROWN: Judge, I think as Mr. Porter is going to  
11 try to play clips, the rule of completeness requires that we  
12 show the whole thing first. I don't think we can show clips  
13 out of context on that, and I think the jury -- we should  
14 probably show Exhibit 2 at this point.

15 MR. PORTER: Judge, I'm trying to move through this  
16 in an efficient way and if in the interest of the rule of  
17 completeness during cross-examination they want to play the  
18 whole thing, they certainly are free to do that, but the rule  
19 of completeness doesn't require that it be all played at the  
20 front end.

21 MR. BROWN: That's going to be my first question on  
22 cross-examination is to publish the whole thing.

23 MR. PORTER: If it's your preference for whatever  
24 reason that we do it all right now, I'm not going to make a big  
25 fuss about it. I'm just trying to move this along, Judge.

1 THE COURT: You can try your case how you want to.  
2 You're not required to play the whole thing, but he is entitled  
3 to request the whole portion be -- it's your choice. Either  
4 way.

5 MR. PORTER: Can we confer, then we'll make a  
6 decision.

7 (The proceedings returned to open court.)

8 MR. PORTER: Your Honor, before we start going into  
9 separate clips, I think in the interest of time, it may be  
10 effective to just play the entire 37 minutes. It will take us  
11 just a moment to get it cued up unless we want to look at the  
12 time he's sitting in the room by himself.

13 MR. BROWN: There's nothing about that that we need  
14 to waste their time looking at.

15 MR. PORTER: That's going to take a few moments. I  
16 don't know if you want to give us a brief recess or you want  
17 everyone sitting here while we're doing that, but we'll get it  
18 cued up right at the point the questioning starts.

19 THE COURT: We're now at 25 till five. There are a  
20 couple of options. You can proceed if you want to play your  
21 select portions and play the full video tomorrow morning and  
22 get through as much of the direct as you want, or you can play  
23 the video for the next 30 minutes and we will end at that point  
24 of the day, or we could play your clips and let --

25 MR. PORTER: Let's do this, then, Your Honor, to



1 make the maximum use of our time. Let's start with 2(a) and  
2 the first thing tomorrow morning we'll be ready right out of  
3 the gate to start at the very beginning and go all the way  
4 through.

5 THE COURT: And I'm not requiring that you play the  
6 whole clip. You are able to. It's admitted into evidence.

7 MR. PORTER: Thank you, Your Honor.

8 Q (By Mr. Porter) All right. Exhibit -- the clip that's  
9 marked for identification as 2(a) depicts the reading of Mr.  
10 Stephens' Miranda rights to him and the signing of that rights  
11 waiver form that's already admitted as Government's Exhibit 1?

12 A Yes, sir.

13 Q Is that clip marked for identification as Exhibit 2(a)  
14 a true and accurate recording of just that portion of the  
15 interview?

16 A Yes, sir.

17 MR. PORTER: Your Honor, we would offer 2(a).

18 THE COURT: Any objection?

19 MR. BROWN: No objection.

20 THE COURT: Admitted.

21 MR. PORTER: And if we could pull 2(a) up.

22 And, Your Honor, permission to publish 2(a) by  
23 playing it for the jury at this time?

24 THE COURT: Yes.

25 (Government's Exhibit No. 2(a) was played.)

1 MR. PORTER: Can we stop for a moment.

2 Your Honor, I just want to have the Court inquire to  
3 make sure the jury can hear. If there's a volume issue, if we  
4 need to make it louder.

5 If we can rewind and start at the beginning so we  
6 don't miss anything. We'll start again.

7 (Government's Exhibit No. 2(a) was played.)

8 Q (By Mr. Porter) All right. We've just watched the  
9 entirety of that clip, Exhibit 2(a). Let's -- while it's still  
10 there visible on the screen, identify the persons who are  
11 depicted in that image.

12 A Sure. Mr. Stephens is wearing a white T-shirt and blue  
13 jeans, it looks to be a pair of Crocs sitting in the corner.  
14 To his left is Charlie Tomlin who is a special agent with the  
15 ATF, and I am the one in the gray T-shirt that is gracefully  
16 balding. So that would be me.

17 Q While you were going through the process of advising  
18 the defendant of his rights, were you evaluating him and  
19 forming your own assessment of whether he understood those  
20 rights?

21 A Yes, sir.

22 Q Were you also evaluating him and forming your own  
23 assessment whether he understood what it meant to waive those  
24 rights?

25 A Yes, sir.

1 Q What was your assessment of whether he understood those  
2 rights?

3 A Mr. Stephens absolutely understood his rights.

4 Q What was your assessment of whether he understood the  
5 meaning of waiving his rights?

6 A It was my assessment that he understood that he could  
7 waive his rights.

8 Q Now, during the course of the entire interview that  
9 lasted roughly 35 or 37 minutes, did the defendant ever say to  
10 you that he wanted to stop talking to you?

11 A No, sir.

12 Q During the entire course of that interview, did he ever  
13 say that he wanted to have a lawyer present?

14 A No, sir.

15 Q And now if I could, Special Agent Abram, I want to  
16 direct your attention to what's been marked for identification  
17 as Government's Exhibit 2(b). Have you had an opportunity to  
18 review that prior to your testimony here today?

19 A I have but I don't remember which clip is what, but I  
20 did.

21 Q And that clip is a portion of the defendant's statement  
22 during the interview when he described being escorted out of  
23 the courthouse?

24 A Okay.

25 Q Is that a true and accurate recording of that portion

1 of the interview between you and the defendant on October 12th  
2 referring to Exhibit 2(b)?

3 A Yes, sir.

4 MR. PORTER: Offer 2(b), Your Honor.

5 MR. BROWN: No objection.

6 THE COURT: Admitted.

7 MR. PORTER: And, Your Honor, permission to publish  
8 2(b) by playing it for the jury at this time?

9 THE COURT: You may.

10 (Government's Exhibit No. 2(b) was played.)

11 Q (By Mr. Porter) Special Agent Abram, during this video  
12 clip, Exhibit 2(b), defendant is stating that Brian Risley was  
13 knocking him down and pushing him in the courtroom?

14 A Yes, sir.

15 Q During the course of your investigation, did you find  
16 any evidence to support that statement that Brian Risley  
17 knocked him down and pushed him?

18 A No, sir.

19 Q There was also a portion of the video clip where the  
20 defendant states where he said a lot of vulgar things while  
21 being escorted out of the courthouse. Do you recall hearing  
22 that?

23 A Yes, sir.

24 Q Did you find evidence to support that statement that he  
25 did in fact say a lot of vulgar things while being escorted out

1 of the courthouse?

2 A Yes, sir.

3 Q What types of evidence did you find to support that?

4 A Just witness statements of him being escorted out of

5 the courthouse, calling the CSOs motherfuckers and referring to

6 Mr. Risley that he's going to whip his ass, a lot of F words.

7 Q And at the end of that video clip, Exhibit 2(b), do you

8 recall Mr. Stephens describing what he did after he was

9 escorted out of the courthouse?

10 A He went outside and sat near a column or a pillar of

11 some sort.

12 Q Now, I want to look very briefly at Exhibit 2(b). You

13 should still have it there in front of you. Is there a

14 notation in the upper left-hand corner with some numbers?

15 A Yes, sir.

16 Q Can you see that?

17 A Yes, sir.

18 Q What are those numbers representing?

19 A You got 2016 for the year, October 12th. It looks like

20 10:35:57.

21 Q Is that an indication of the time that that -- ten

22 o'clock, 35 minutes after the hour, 37 seconds?

23 A Fifty-seven seconds.

24 Q Fifty-seven. I'm sorry.

25 A That's correct.

1 Q And that timer or that keeping of time is running  
2 continuously throughout the video as it's recording?  
3 A That's correct.  
4 Q Okay. Let me direct your attention now to Exhibit 2(c)  
5 marked for identification. You had an opportunity to review  
6 that prior to coming to court today?  
7 A Yes, sir.  
8 Q Is it a true and accurate recording of that portion of  
9 the interview on October the 12th?  
10 A Yes, sir.  
11 MR. PORTER: Offer 2(c).  
12 MR. BROWN: No objection.  
13 THE COURT: Admitted.  
14 Q (By Mr. Porter) And in this clip the defendant is  
15 continuing to describe to you what he did after being escorted  
16 out of the courthouse?  
17 A Correct.  
18 Q All right.  
19 MR. PORTER: Permission to publish 2(c), Your Honor?  
20 THE COURT: You may.  
21 MR. PORTER: And as soon as you pull that up, if you  
22 would just stop it immediately because we want to look at that  
23 timer.  
24 Q (By Mr. Porter) Again, directing your attention to the  
25 upper left-hand corner, what time is depicted there?

1 A The time is 10:35:57.

2 Q So that is immediately after --

3 A Yes, sir.

4 Q -- the previous clip?

5 A Yes, sir.

6 Q There's been no lapse?

7 A No lapse.

8 Q We've just stopped it because it's a different subject

9 matter?

10 A Yes, sir.

11 Q And so now we're picking up immediately where

12 Exhibit 2(b) left off?

13 A Yes.

14 Q There's been no conversation that's not recorded?

15 A No conversation.

16 MR. PORTER: Let's continue.

17 (Government's Exhibit No. 2(c) was played.)

18 Q (By Mr. Porter) The big guy in the suit he's referring

19 there to at the end of clip is whom?

20 A It's Mr. Risley, Vershawn Edwards' defense attorney.

21 Q So let's go back and review what's just been played for

22 the jury. The first thing Mr. Stephens says he did after he

23 was out there was sitting by the pillar?

24 A Yes, sir.

25 Q And his granddaughter comes out, right?

1       A       Among others, granddaughter and others showed up.

2       Q       He and -- then he and his granddaughter sat there for a  
3       few minutes outside the courthouse?

4       A       Yes.

5       Q       They went for a walk?

6       A       She had actually tried to get into the courthouse and  
7       couldn't because she needed to use the restroom and they  
8       wouldn't let her in because she didn't have an I.D. So after  
9       that encounter, she comes back out with Mr. Stephens sitting  
10      there. Then they decide to take a walk, which I assume was to  
11      find a bathroom for her.

12      Q       And he said that he and his granddaughter went for a  
13      walk. Did he say where they went for the walk?

14      A       He referred to it as an old folks home, like the Tower  
15      Apartments, which is a block from the courthouse.

16      Q       Let's look at Exhibit 15 together. Exhibit 15 is  
17      before you, Special Agent Abram. Can you identify for the jury  
18      the place that Mr. Stephens was referring to when he said where  
19      he and his granddaughter went for a walk to, a place for older  
20      folks?

21      A       Yeah. Just as you come out of the courthouse down to  
22      the parking lot there, you go up the hill just a little bit and  
23      there's two Tower Apartments that are up there. That's where  
24      the granddaughter used the restroom and Mr. Stephens sat on the  
25      bench.



1 Q Are you referring to the area that's in the upper  
2 left-hand corner of the photograph?

3 A Just right where it says 80 Lafayette Street there's a  
4 complex there. Seven, eight stories, apartments.

5 Q All right. I think, if technology is going to be our  
6 friend, that you can with your finger circle the area you are  
7 describing as the old folks home.

8 A It's not actually an old folks home but that's what he  
9 referred to it as.

10 Q Okay. And that is on what's marked as State Street?

11 A Yes, sir.

12 Q And we can look at the photograph and the street  
13 intersections and conclude from that that it's roughly two  
14 blocks away?

15 A Yes, sir.

16 Q And that's where he said he and his granddaughter went  
17 and she went inside and he sat outside on the benches?

18 A That's correct.

19 Q Did he say how long he sat there?

20 A I don't think he did. No specifics.

21 Q Ultimately his granddaughter came back out?

22 A Yes.

23 Q They reunited?

24 A Yes.

25 Q Then they went up the street to find the white Chrysler

1     that she had keys to?

2     A         Yes.

3     Q         And they both got in the white Chrysler?

4     A         Yes.

5     Q         And according to him fell asleep?

6     A         That's correct.

7     Q         Did he say how long he was asleep?

8     A         No, he did not.

9     Q         Did he say what he did after he woke up?

10    A         I believe he said that Malcolm's mother and others came  
11 back outside, I believe to smoke a cigarette at the car, and  
12 woke him up, he and his granddaughter.

13    Q         And after Malcolm's mother, sister, other family  
14 members came and found him, they spoke?

15    A         Yes.

16    Q         What happened to those other family members?

17    A         I believe after the smoke break, they returned to the  
18 courthouse.

19    Q         That's what he told you?

20    A         Yes.

21    Q         Did he say what he did after those family members left  
22 and went back to the courthouse?

23    A         He said somebody rolled up. I couldn't quite make out  
24 the name on the interview. Looking back I put that he had to  
25 go get his girlfriend so they rolled with him.

1 Q Did they make a reference going back to sleep at that  
2 point?

3 A Yes.

4 Q The girlfriend that needed to be picked up, was that  
5 someone that he identified that you were able to understand who  
6 that person was?

7 A No.

8 Q Whoever it is they needed to go get their girlfriend?

9 A That's correct.

10 Q And about that time or after that is when the  
11 defendant's cousin Dobby --

12 A Yes.

13 Q -- came down the street?

14 A That's correct.

15 Q And the defendant then met up with Dobby and the two of  
16 them started walking?

17 A Yes.

18 Q And as the defendant is walking with Dobby, that's when  
19 the defendant tells you he encountered the big guy, Brian  
20 Risley?

21 A Mr. Risley, that's correct.

22 MR. PORTER: If we could go back to where we were at  
23 on Exhibit 2(c).

24 (Government's Exhibit No. 2(c) was played.)

25 Q (By Mr. Porter) All right. At the clip in the upper

1 left-hand corner what's the time?

2 A It looks like 10:38:26.

3 Q So he's just now given you roughly a -- from 10:35:57

4 at the start to 10:38:26 at the end, two and a half minutes?

5 A Yes, sir.

6 Q Give or take?

7 A Right.

8 Q It's hard not to notice that during that time period

9 you're not interrupting Mr. Stephens very much?

10 A No, sir.

11 Q He's giving you his own narrative account of what he

12 did?

13 A Yes, sir.

14 Q Prior to the time that there was the encounter with Mr.

15 Risley?

16 A That's correct.

17 Q Why didn't you interrupt him?

18 A I wanted to hear what he had to say.

19 Q As you were listening to what he had to say, was it

20 apparent to you that that had some inconsistency problems?

21 A He was lying to me.

22 Q So let's look just a moment briefly at Government's

23 Exhibit 17.

24 A Yes, sir.

25 Q And we know from that Vershawn Edwards' sentencing

1 hearing ended at 1:45, correct?

2 A Yes, sir.

3 Q And let's just look for another moment quickly at  
4 Exhibit 6 at the same time. Separately is fine. That's fine.  
5 And we know that the voicemail message that Mr. Risley left for  
6 Mike Oliver was at 1:55?

7 A That's correct.

8 Q So we know the time period between the end of the  
9 sentencing hearing and after the encounter had already happened  
10 is less than ten minutes?

11 A Less than ten minutes, yes.

12 Q All the things that Mr. Edwards -- excuse me. All the  
13 things that Mr. Stephens described to you sitting with his  
14 granddaughter outside the courthouse for a few minutes, taking  
15 a walk, going up to that place two blocks away, coming back,  
16 getting in a car, falling asleep, waking up, having a  
17 conversation with other family members, walking down the  
18 street, going back to sleep, meeting somebody else about a  
19 girlfriend, meeting up with Dobby, and then encountering Mr.  
20 Risley, is it possible for that to have even happened in that  
21 less than ten-minute time period?

22 A No, sir.

23 MR. PORTER: Your Honor, we can break whenever you  
24 wish.

25 THE COURT: This is your witness. If this is a good

1 time to break, let's break for tonight.

2 MR. PORTER: Thank you.

3 THE COURT: Ladies and gentlemen of the jury, we  
4 will take our evening break, and obviously you will be  
5 returning again tomorrow. Let's have you back at 8:45.

6 I'll read you the admonishment for the evening. We  
7 are about to take a recess and I remind you of the instruction  
8 I gave you earlier. During this recess or any other recess,  
9 you must not discuss this case with anyone, including the other  
10 jurors, members of your family, people involved in the trial,  
11 or anyone else. If anyone tries to talk to you about the case,  
12 please let me know immediately about it.

13 Do not read, watch, or listen to any news reports of  
14 the trial. Finally, keep an open mind until all the evidence  
15 has been received and you have heard the views of your fellow  
16 jurors. I may not repeat these things to you before every  
17 recess but keep them in mind throughout the trial.

18 I would also ask that -- we should be able to finish  
19 the evidence and turn the case over to you tomorrow. I would  
20 ask that you clear your calendars in case we need to go later  
21 than five. If you have an obligation or a problem, will you  
22 let Ms. Wheeler know either tonight or tomorrow morning; and if  
23 there's a time period that you must be back at home or leave  
24 the courthouse, please let us know so we can plan accordingly.

25 Have a good evening and drive safely. We'll be in

1 recess.

2 (The following proceedings were had in the courtroom  
3 out of the presence of the jury:)

4 THE COURT: Please be seated. Let's go back on the  
5 record.

6 And, Mr. Abram, you can stand down from the stand.

7 Mr. Brown, do you have any issues to take up tonight  
8 or anything we can accomplish this evening?

9 MR. BROWN: I don't have anything to bring up, but I  
10 would be certainly happy if anybody else does.

11 THE COURT: Mr. Porter and Ms. Orsinger, do you have  
12 any issues to take up or anything we can accomplish tonight?

13 MR. PORTER: Your Honor, we don't have any issues,  
14 but I can report to the Court that Wendy Houston has been  
15 advised to be back here at the courthouse at 8:45 tomorrow, and  
16 I think arrangements are underway or will be underway to make  
17 whatever accommodations or arrangements that need to be made  
18 for her relative to a place to stay and travel for tomorrow.

19 THE COURT: Very good. Let me ask my staff if there  
20 are any issues that came up that we can handle tonight, or are  
21 we ready to recess for the evening?

22 I think that will wrap up today's work and if you  
23 guys can be back -- does 8:15 sound doable?

24 MR. BROWN: For me.

25 THE COURT: Since we will probably go over

1 instructions in the morning, it would be nice if we can flush  
2 those out. I don't know that we can do much more.

3 MR. BROWN: Right. And for what it's worth, Judge,  
4 I'll talk with Mr. Porter after we've recessed here and maybe  
5 we can speed up, if they have the technology, because I don't,  
6 listening to the whole video.

7 THE COURT: Okay. I'll let you both work that out.  
8 You both have the ability to play that during your different  
9 cases in chief.

10 I did give to you -- I believe one of my clerks gave  
11 you Instruction No. 21 where the Court sees the evidence  
12 flowing at this point to conform with the evidence. But,  
13 again, that's my -- the Court's interpretation subject to the  
14 various arguments.

15 MR. PORTER: We'll be ready, Your Honor, on behalf  
16 of the government to have a robust instruction conference with  
17 you at 8:15 tomorrow morning.

18 THE COURT: Very good. Have a good evening.

19 DEPUTY MARSHAL: Your Honor, two things. What time  
20 do you want the defendant here? You want him here for jury  
21 instructions?

22 THE COURT: The defendant? Yes. I'm assuming --  
23 Mr. Brown, do you know if your client wants to be here while we  
24 hash through instructions? Sometimes we can do that in  
25 chambers and then come back out and put them on the record.



1 MR. BROWN: I can't imagine he would want to sit  
2 through --

3 THE COURT: Okay. That's your call. So if you can  
4 coordinate with the marshals when you want your client brought  
5 in before nine o'clock.

6 MR. BROWN: I plan to go see -- he's over here in  
7 Cole County. They don't want anyone there until after six,  
8 6:30 this evening. I can let them know. I won't say anything  
9 unless he insists on being here when we hash it out, and the  
10 regular time would be, I'm sure, sufficient.

11 THE COURT: Let's have him here at 8:30 and he'll  
12 need to be ready for court at nine.

13 DEPUTY MARSHAL: I informed Mr. Beckner that he is  
14 under subpoena and required to be here.

15 THE COURT: And did he acknowledge that?

16 DEPUTY MARSHAL: He acknowledged it. He said he  
17 doesn't have a ride and he has a -- he missed an appointment  
18 with the psychiatrist today and he has one at two o'clock  
19 tomorrow afternoon and he has to speak with Mr. Brown.

20 THE COURT: Okay. Very good.

21 MR. PORTER: Is Mr. Beckner still here?

22 DEPUTY MARSHAL: As far as I know he is, yes.

23 THE COURT: I'll speak to him before I leave.

24 (Court adjourned at 5:05 p.m. until 8:15 a.m.  
25 Wednesday, December 7, 2016.)